राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

वीरवार, 22 मार्च, 2018 / 1 चैत्र, 1940

हिमाचल प्रदेश सरकार

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Shimla, the 28th *December,* 2017

No. Shram (A) 6-5/2017 (Awards).—In exercise of the powers vested under Section 17 (1) of the Industrial Disputes Act,1947, the Governor Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding Officer, Labour Court

Shimla on the website of the Department of Labour & Employment Government of Himachal Pradesh:—

Sl. No.	Reference/ Application	Title	Section
1.	Ref. 08/2014	Sh.Brijesh Kumar *V/s* M/s Himachal Engg (P) Ltd.	10
2.	Ref. 88/2017	Hiamchal Hotel Mazdoor Lal Jhanda Union *V/s* United-21. Resort Chail Kufri Road, Janerghat Junga Distt, Shimla.	10
3.	Ref. 15/2016	Sh. Laxmi Kant s/o Shri Amar Nath Sharma *V/s* Executive Engg. H.P.P.W.D. Shimla.	10
4.	Ref. 74/2016	Sh. Sunder Lal *V/s* The Registrar Y.S.P. UNI & Anr.	10
5.	Ref. 69/2016	Sh.Narinder Kumar *V/s* Add S.E. HPSEB Shimla.	10
6.	Ref. 75/2016	Sh. Jagat Ram *V/s* The Resident Engg. HPSEB Shimla	10
7.	Ref. 55/2014	Sh. Sudama Ram *V/s* M/s Sidharatha Super Spinning Mills Ltd.	10
8.	Ref. 84/2015	Sh. Rajinder Kumar *V/s* Dr. Y.S.P. University & Anr	10
9.	Ref. 15/2012	Sh. J.P. Mehta *V/s* HPSEB, Shimla	10

By order,
R. D. DHIMAN, IAS
Pr. Secretary (Lab. & Emp.).

———————

IN THE COURT OF SH. SUSHIL KUKREJA, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA

12-12-2017.

Present: None.

Case called repeatedly but none appeared on behalf of the parties. For today, the case has been listed for the service of the parties. The record reveals that after the receipt of reference from the appropriate government, the notices were issued to the parties to appear before this Court on 17-10-2017 but none appeared for petitioners as well as respondent and thereafter again the notices have been issued for the service of the parties but despite that the petitioners as well as respondent could not be served. The record further reveals that the notices issued to the petitioners on the address given in reference itself have been received back with the report that "factory has been closed". It is pertinent to mention here that the appropriate government has also sent a copy of the reference to the petitioners on the address provided by them during conciliation proceedings which means that they are having the knowledge about the pendency of the reference before this Court but despite that they have failed to appear before this Court. There is no other address of the petitioners as well as respondent available with this Court

so that they can be served. In the light of aforesaid facts, this Court is left with no other alternative but to adjourn the reference *sine-die.*

However, liberty is granted to the petitioners to revive the present reference by filing an application as and when they approach this Court. File, after completion be consigned to records.

SUSHIL KUKREJA,
Presiding Judge,
Labour Court, Shimla.

IN THE COURT OF SH. SUSHIL KUKREJA, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNAL-CUM-**LABOUR COURT, SHIMLA**

24-10-2017.

Present: None for the petitioner.

Respondent in person.

Case called repeatedly in pre and post lunch sessions but none appeared on behalf of petitioner. For today, the case has been listed for the service of the petitioner. As per acknowledgement received back, the notice issued for the service of the petitioner has been duly served but despite having been served none appeared on behalf of the petitioner union which clearly shows that the petitioner union is not interested to pursue this case arising out of the reference. Therefore, this Court is left with no other alternative but to decide the reference on the basis of material whichever is available on file.

The following reference has been received from appropriate government for adjudication:

"**Whether demand No. 1,5,6 and 8 raised by the President and General Secretary, Himachal Hotel Mazdoor Lal Jhanda Union (affiliated to CITU), 9 Bawa Building, The Mall Shimla-3** vide **demand notice dated nil (copy enclosed) for fulfilling before Shri Devinder Thakur, Employer Hotel Anfield near Victory Tunnel Shimla-3 are legal and justified? If yes, what monetary and other benefits the aggrieved workmen are entitled to from the above employer?"**

From the aforesaid reference is the clear that the petitioner union has raised demands *vide* demand notice dated nill before and to be fulfilled by the Employer/respondent but despite having been served none appeared on behalf of the petitioner union to file statement of claim. Therefore, in the absence of any material on record, it cannot be said that the demands raised *vide* demand notice dated nill before and to be fulfilled by the Employer/respondent are legal and justified. Hence, the reference is answered against the petitioner union and the award is passed accordingly. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

SUSHIL KUKREJA,
Presiding Judge,
Labour Court, Shimla.

IN THE COURT OF SUSHIL KUKREJA, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA

Ref. No. 15 of 2016

Instituted on 15-3-2016

Decided on 28-11-2017

Laxmi Kant s/o Shri Amar Nath Sharma Village Khaira, P.O. Khaira, Tehsil Sunni, District Shimla, H.P. . .*Petitioner.*

Vs.

Executive Engineer, H.P.PWD Division No.-II, H.P.PWD, Shimla, H.P. . .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner: Shri Niranjan Verma, Advocate

For respondent: Shri H.N Kashyap, ADA

AWARD

The reference for adjudication, sent by the appropriate government, is as under:

"Whether alleged termination of services of Shri Laxmi Kant s/o Shri Amar Nath Sharma, V.P.O. Khaira, Tehsil Sunni, Distt. Shimla, H.P. during December, 1992 by the Executive Engineer, H.P.PWD Division No.-III, Shimla-4, who had worked as Beldar on daily wages only for 79 days and 107 ½ days in 1991 & 1992 respectively and has raised his industrial dispute after about 21 years, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period of 79 days and 107 ½ days in 1991 and 1992 respectively and delay of 21 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"

2. Briefly, the case of the petitioner is that he was appointed as a daily wager in the year, 1991 under HPPWD Vidhan Sabah Sub-Division Shimla and worked as such till December, 1992 and thereafter his services were terminated without any notice as provided under the Industrial Disputes Act, 1947 (hereinafter referred to as Act) and without applying any procedure. It is further stated that the petitioner had completed 240 days in the calendar year and that the junior persons to him namely S/Shri Gian Chand, Daya Nand, Satya Devi, Hem Lata, Jeet Singh, Hem Chand, Kapil Dev, Jai Singh, Sher Singh, Leela Devi, Tunnu Ram, Sheetla, Kapoor Singh, Narender Bahadur, Roshan Lal, Manohar, Bimla, Man Singh, Sohan lal etc. have been regularized and more than 138 persons have been given regular appointments who were junior and working along-with the petitioner on daily wages which is illegal and against the principles of "last come first go". It is also stated that in the year, 2012, the juniors to the petitioner were also engaged and some were regularized, then the petitioner submitted demand notice to the respondent and the same was referred to this Court by the Labour Commissioner. That before

terminating the services of the petitioner, the department had not given any notice to the petitioner as required under Section 25-F of the Act and even neither any chargesheet was issued to him nor any enquiry was conducted against him. Against this back-drop a prayer has been made that the services of the petitioner be ordered to be reinstated including seniority, continuity and back- wages along-with regularization.

3. By filing reply, the respondent contested the claim of the petitioner wherein preliminary objections have been taken *qua* maintainability and that the claim petition is barred by limitation. On merits, it has been asserted that the petitioner was initially engaged in the respondent department during October 1991 and he worked for 79 days. In the year 1992, the petitioner had worked for 107 ½ days and thereafter he had left the job at his own will. It is further asserted that few workmen who remained in continuous engagement for 240 days in each calendar year were regularized by the department but the petitioner worked intermittently in the year 1991 and 1992 and thereafter he had left the job at his own w.*e.f.* April 1992, hence, the principles of last come first go is not applicable in the present case. It is also asserted that the petitioner had approached this Court after 22 years for taking undue benefit. The respondent prayed for the dismissal of the claim petition.

4. Rejoinder not filed. On the pleadings of the parties, the following issues were framed on 28-4-2017 :—

1. Whether the termination of the services of petitioner during December, 1992 by the respondent without complying with the provisions of Industrial Disputes Act, 1947 is illegal and unjustified as alleged? . .*OPP.*

2. If issue No.1 is proved in affirmative, to what relief of service benefits the petitioner is entitled? . .*OPP.*

3. Whether the claim petition is not maintainable as alleged? . .*OPR.*

4. Whether the claim petition is barred by limitation as alleged? . .*OPR.*

5. Relief.

5. I have heard the learned counsel for the parties and have also gone through the record of the case.

6. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under.

Issue No.1 : No

Issue No.2 : Becomes redundant

Issue No.3 : No

Issue No.4 : Yes

Relief : Reference answered in favour of the respondent and against the petitioner per operative part of award.

REASONS FOR FINDINGS

Issues No.1 & 4:

7. Being interlinked and co-related both these issues are taken up together for discussion and decision.

8. The learned counsel for the petitioner contended that the services of the petitioner had been terminated by the respondent illegally without serving him any notice as required under Section 25-F of the Act especially when he had completed more than 240 days in each calendar year. He further contended that the junior persons to the petitioner are still working with the respondent and fresh workers have been engaged in violation of the provisions of Section 25-G and 25-H of the Act.

9. On the other hand, learned ADA for the respondent contended that the claim of the petitioner is highly belated and stale. He further contended that the services of the petitioner had never been terminated by the respondent who had left the job at his own and even he had not completed 240 days in any calendar year. He also contended that no junior to the petitioner had been retained and no fresh hands had been engaged by the respondent, hence, he is not entitled to any relief.

10. To prove issue No.1, the petitioner stepped into the witness box as PW-1 to depose that he was engaged as daily waged worker by the respondent department in the month of October, 1991 and worked as such till December, 1992. He further stated that he had completed 240 days and he was terminated without issuance of any notice. He also stated that no enquiry was conducted against him and his juniors S/Shri Roshan Lal, Man Singh, Bimla, Manohar and others are still working and had been regularized. In cross-examination, he admitted that he had worked for 79 days in the year, 1991. He denied that he had worked for 107 days in the year 1992. He further denied that he had left the job at his own in April 1992. He also denied that he had not completed 240 days in any calendar year.

11. PW-2 Shri Het Ram, Senior Assistant from the o/o Assistant Engineer, HPPWD Sub- Division Shimla-4 has produced summoned record and stated that Man Singh is working in their sub-division as Beldar since 1992 and he has been regularized on 1-1-2002. He further deposed that the record of other persons namely Daya Nand, Satya Devi, Hem Lata, Jeet Singh, Hem Chand, Kapil Dev and Sohan Lal is not available in their office as they have not been engaged in their sub division. In cross-examination he admitted that the petitioner had not completed 240 days in any calendar year and Man Singh had worked for 10 years continuously and thereafter he has been regularized as per the policy of the Government.

12. On the other hand, the respondent examined Shri Ravi Kaundal, Assistant Engineer as RW-1 who tendered in evidence his affidavit Ex. RW-1/A wherein he reiterated almost all the averments as made in the reply filed by respondent. He also tendered in evidence the copy of mandays chart Ex. RW- 1/B, copy of order passed by the Hon'ble High Court in LPA No. 91 of 2011 Ex. RW-1/C, copy of order passed by the Hon'ble High Court in CWP No. 4389/2015 Ex. RW-1/D and the copy of order passed by the Hon'ble High Court in CWP No. 2089/2017 Ex. RW-1/E. In cross-examination, he admitted that the department had not issued any notice to the petitioner to re-join his duties. He further admitted that some of the juniors to the petitioner were regularized by the department. He denied that the petitioner had completed 240 days in a calendar year.

13. I have closely scrutinized the entire evidence, on record, and from the closer scrutiny thereof, it has become clear that the petitioner had worked only for 186 ½ days as daily waged Beldar with the respondent during the entire period *w.e.f.* October 1991 till April 1992 as per the mandays chart Ex. RW-1/B. Now, the question which arises for consideration before this Court is as to whether the reference is stale and highly belated. The learned counsel for the petitioner contended that under the Industrial Disputes, no limitation is prescribed and the provision of Article 137 of the Limitation Act 1963 is not applicable to the proceedings under the Act and the relief under the Industrial Disputes Act cannot be denied to the workman merely on the ground of delay.

14. Undisputedly, the petitioner had raised his industrial dispute after a period of more than 21 years. According to the petitioner he was terminated during December 1992. It is also clear from the reference itself that the petitioner had raised the industrial dispute after more than 21 years. Therefore, the position of law in respect of a stale claim is required to be seen.

15. In (2013) 14 SCC 543, titled as Assistant Engineer Rajasthan State Agriculture Marketing Board, Sub Division Kota Vs. **Mohan Lal**, it has been held by the Hon'ble Apex Court that though the Limitation Act is not applicable to the reference made under the I.D Act but delay in raising industrial Dispute is an important circumstance for exercise of judicial discretion in determining relief that is to be granted. The relevant portion of aforesaid judgment is reproduced as under:

> "19. We are clearly of the view that though the Limitation Act, 1963 is not applicable to the reference made under the ID Act but delay in raising industrial dispute is definitely an important circumstance which the Labour Court must keep in view at the time of exercise of discretion irrespective of whether or not such objection has been raised by the other side. The legal position laid down by this Court in Gitam Singh that before exercising its judicial discretion, the Labour Court has to keep in view all relevant factors including the mode and manner of appointment, nature of employment, length of service, the ground on which termination has been set aside and the delay in raising industrial dispute before grant of relief in an industrial dispute, must be invariably followed."

16. In Assistant Executive Engineer, Karnataka Vs. **Shivalinga reported in (2002) 10 SCC 167**, the services of the employee were terminated on 25-5-1985 and he approached the Labour Officer on 17-3-1995 and then the reference was made by the Government to the Labour Court. There was a delay of more than nine years in approaching the Labour Officer. In para 6 of the aforesaid judgment, the Hon'ble Apex Court has held as under:

> "Learned counsel for the appellant strongly relied on the reasoning of the Labour Court and contended that the view of the High Court would not advance the cause of justice. Learned counsel for the respondent relied upon two decisions of this Court in Ajaib Singh *Vs.* Sirhind Coop. Marketing-*cum*-Processing Service Society Ltd. (1999) 6 SCC 82 and Sapan Kumar Pandit *vs.* U.P. SEB (2001) 6 SCC 222 to contend that there is no period of limitation prescribed under the Industrial Disputes Act to raise the dispute and it is open to a party to approach the Court even belatedly and the Labour Court or the Industrial Tribunal can properly mould the relief by refusing or awarding part-payment of back wages. It is no doubt true that in appropriate cases, as held by this Court in the aforesaid two decisions, such steps could be taken by the Labour Court or the Industrial Tribunal, as the case may be, where there is no such dispute to relationship between the parties as employer and employee. In cases where there is a serious dispute, or doubt in such relationship and records of the employer become relevant, the long delay would

come in the way of maintenance of the same. In such circumstances to make them available to a Labour Court or the Industrial Tribunal to adjudicate the dispute appropriately will be impossible. A situation of that nature would render the claim to have become stale. That is exactly the situation arising in this case. In that view of the matter, we think the two decisions relied upon by the learned counsel have no application to the case on hand."

Thus, it has been held that in case there is a serious dispute or doubt in such relationship and the records of the employer become relevant, the long delay would come in the way of maintenance of the same.

17. ***In Haryana State Coop. Land Development Bank*** *Vs.* ***Neelam reported in (2005) 5 SCC 91,*** the employee was discontinued from service *w.e.f.* 30-5-1986 and he raised the demand notice on 30-9-1993 and thereafter the reference was sent to the Labour Court by the appropriate government. The Labour Court passed an order answering the reference against the employee holding that the claim was belated. Thereafter, a writ petition was filed before the Hon'ble High Court which was allowed and the employee was directed to be reinstated in service with continuity of service but without back-wages. The Hon'ble Supreme Court set aside the judgment of the High Court and restored the judgment of the Labour Court as a result the reference stood answered against the workman. The relevant portion of the aforesaid judgment is reproduced as under:

13. "In Ajaib Singh (*supra*), the management did not raise any plea of delay. The Court observed that had such plea been raised, the workman would have been in a position to show the circumstances which prevented him in approaching the Court at an earlier stage or even to satisfy the Court that such a plea was not sustainable after the reference was made by the Government. In that case, the Labour Court granted the relief, but the same was denied to the workman only by the High Court. The Court referred to the purport and object of enacting Industrial Disputes Act only with a view to find out as to whether the provisions of the Article 137 of the Schedule appended to the Limitation Act, 1963 are applicable or not. Although, the Court cannot import a period of limitation when the statute does not prescribe the same, as was observed in Ajaib Singh (*supra*), but it does not mean that irrespective of facts and circumstances of each case, a stale claim must be entertained by the appropriate Government while making a reference or in a case where such reference is made the workman would be entitled to the relief at the hands of the Labour Court."

14. "The decision of Ajaib Singh (supra) must be held to have been rendered in the fact situation obtaining therein and no ratio of universal application can be culled out therefrom. A decision, as is well-known, is an authority of what it decides and not what can logically be deduced therefrom Bharat Forge Co. Ltd. *Vs.* Uttam Manohar Nakate, JT 2005 (1) SC 303], and Kalyan Chandra Sarkar *vs.* Rajesh Ranjan @ Pappu Yadav & Anr. para 42."

15" In Balbir Singh *vs.* Punjab Roadways and Another [(2001) 1 SCC 133], as regard Ajaib Singh (*supra*), this Court observed :

5." The learned counsel for the petitioner strenuously urged that the Tribunal committed error in denying relief to the workman merely on the ground of delay. The learned counsel submitted that in industrial dispute delay should not be taken as a ground for denying relief to the workman if the order/orders under challenge are found to be unsustainable in law. He placed reliance on the decision of this Court in

the case of Ajaib Singh *v.* Sirhind Coop. Marketing-*cum*-Processing Service Society Ltd. [(1999) 6 SCC 82 : 1999 SCC (L&S) 1054: JT (1999) 3 SC 38].

6. "We have carefully considered the contentions raised by the learned counsel for the petitioner. We have also perused the aforementioned decision. We do not find that any general principle as contended by the learned counsel for the petitioner has been laid down in that decision. The decision was rendered on the facts and circumstances of the case, particularly the fact that the plea of delay was not taken by the management in the proceeding before the Tribunal. In the case on hand the plea of delay was raised and was accepted by the Tribunal. Therefore, the decision cited is of little help in the present case. Whether relief to the workman should be denied on the ground of delay or it should be appropriately moulded is at the discretion of the Tribunal depending on the facts and circumstances of the case. No doubt the discretion is to be exercised judicially."

16. "Yet again in Assistant Executive Engineer, Karnataka *vs*. Shivalinga [(2002) 10 SCC 167], a Bench of this Court observed :

"6. Learned counsel for the appellant strongly relied on the reasoning of the Labour Court and contended that the view of the High Court would not advance the cause of justice. Learned counsel for the respondent relied upon two decisions of this Court in Ajaib Singh *vs*. Sirhind Coop. Marketing-*cum*-Processing Service Society Ltd. (1999) 6 SCC 82 and Sapan Kumar Pandit *vs*. U.P. SEB (2001) 6 SCC 222 to contend that there is no period of limitation prescribed under the Industrial Disputes Act to raise the dispute and it is open to a party to approach the Court even belatedly and the Labour Court or the Industrial Tribunal can properly mould the relief by refusing or awarding part-payment of back wages. It is no doubt true that in appropriate cases, as held by this Court in the aforesaid two decisions, such steps could be taken by the Labour Court or the Industrial Tribunal, as the case may be, where there is no such dispute to relationship between the parties as employer and employee. In cases where there is a serious dispute, or doubt in such relationship and records of the employer become relevant, the long delay would come in the way of maintenance of the same. In such circumstances to make them available to a Labour Court or the Industrial Tribunal to adjudicate the dispute appropriately will be impossible. A situation of that nature would render the claim to have become stale. That is exactly the situation arising in this case. In that view of the matter, we think the two decisions relied upon by the learned counsel have no application to the case on hand."

17. "In Nedungadi Bank Ltd. (*supra*), a Bench of this Court, where S. Saghir Ahmad was a member [His Lordship was also a member in Ajaib Singh (*supra*), opined :

"6. Law does not prescribe any time-limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service. At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale could not be the subject-matter of reference under Section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the

matter has become final, it appears to us to be rather incongruous that the reference be made under Section 10 of the Act in the circumstances like the present one. In fact it could be said that there was no dispute pending at the time when the reference in question was made." (*Emphasis supplied*).

18. In (2006) 5 SCC 433 in case titled as UP State Road Transport Corporation Vs. **Babu Ram**, the termination was dated 19-9-1983 and the reference was made on 29-8-1998. The Labour Court has held the termination as un-valid without considering the question of delay. The Hon'ble High Court dismissed the writ petition. The Hon'ble Supreme Court has held that no material was placed on record to show that the dispute was raised within reasonable time and the employee was not responsible for delay. The relevant portion of the aforesaid judgment is reproduced as under:

"10. It is to be noted that the High Court has very cryptically disposed of the writ petition. The workman has not placed any material to show that it had raised dispute within a reasonable time, and/or that he was not responsible for delayed decision if any in the conciliation proceedings. It was for him to show that the dispute was raised within a reasonable time and that he was not responsible for any delay. The High Court, on a hypothetical basis has assumed that the dispute might have been raised promptly but delayed by the State Government and he cannot be penalized for delay in finalizing the conciliation proceedings and the reference. But neither the Labour Court nor the High Court has even noted the factual position. The conclusion was based on surmises and conjectures."

19. In Assistant Engineer, CAD Kota Vs. **Dhan Kunwar reported in (2006) 5 SCC 481**, the delay was of about eight years in raising the dispute. The Labour Court granted reinstatement with 30 % back-wages. The writ petition and writ appeal filed by the employer were dismissed. However, the Hon'ble Apex Court set aside the judgments of Hon'ble High Court and the Labour Court and held that no relief should have been granted. The relevant portion of the aforesaid judgment is reproduced herein under:

"9. In the background of what has been stated above, the Labour Court should not have granted relief. Unfortunately, learned Single Judge and the Division Bench did not consider the issues in their proper perspective and arrived at abrupt conclusions without even indicating justifiable reasons……..

20. In **UP State Road Transport Corporation** Vs. **Ram Singh and another (2008) 17 SCC 627**, the termination was dated 15.3.1973 and the reference was dated 15.6.1986 and there was a delay of about 13 years in making the reference. The reference was dismissed on the ground of delay. The relevant portion of the aforesaid judgment reads as under:

" 7. We are of the view that in the facts and circumstances of the case, the High Court erred in not setting aside the award of the Labour Court. Apart from the unacceptable manner in which the appellant was denied the opportunity of participating in the proceedings, including being debarred from cross-examining the respondent, the Labour Court could not have entertained the industrial dispute given the enormous delay. This Court has in several decisions has held that while delay cannot by itself be sufficient reason to reject an industrial dispute, never the less the delay cannot be un-reasonable. The decision in Prakash Chander Sahu has reaffirmed this principle. The reason for diligence and promptness lies in the fact that the records pertaining to an employee might have been destroyed and it would be difficult to obtain witnesses who would be competent to give evidence so many years later if the Labour Court wishes to hold a

further enquiry into the matter. In the present case, the delay of 13 years is unreasonable. The mere fact that the respondent was making repeated representations would not justify his raising the issue before the Labour Court after 13 years. In any event, the last representation was made in 1983 and the industrial dispute was admittedly raised in 1986. The lack of diligence on the part of the respondent is apparent."

21. In (2009) 13 SCC 746, State of Karnataka Vs. **Ravi Kumar** the Hon'ble Supreme Court dismissed the reference on the ground of delay and it was held that the person supervising could not be expected to prove after 14 years that the employee did not work or that he did not work for 240 days or he voluntarily left the job. The relevant portion of the aforesaid judgment reads as under:

"9. It is not possible to expect the Asstt. Executive Engineer to prove after 14 years that the daily wager did not work or that he did not work for 240 days in a year or that the daily wager voluntarily left the work……

22. In a recent judgment of our **Hon'ble High Court delivered in CWP no. 1912 of 2016 titled as Bego Devi** Versus **State of HP and others decided on 26-10-2016**, it has been held as under:

"9. **It is beaten law of land that delay takes away the settings of law. A person who does not seek relief within time, his petition has to be dismissed only on the grounds of delay and laches, otherwise, it would amount to gross misuse of jurisdiction and disturb the settled position".**

23. In view of the aforesaid law laid down by the Hon'ble Apex Court, it is clear that though the Court cannot import the period of limitation and the reference cannot be dismissed merely on the ground of delay, it does not mean that irrespective of the facts and circumstances of the case, a stale claim must be entertained and the relief should be granted. In the case of delay, no formula of universal application can be laid down and it would depend on the facts and circumstances of each case. The delay would certainly be fatal if it has resulted in material evidence relevant to the adjudication being lost and rendered unavailable. The onus of showing that the dispute was raised within a reasonable time is upon the workman and it is for the workman to explain the delay by furnishing the acceptable explanation to the satisfaction of the Court that he was not responsible for the delay caused. The fact that the workman was making repeated representations/requests is not sufficient to explain the delay.

24. Keeping in view the aforesaid principles laid down by the Hon'ble Apex Court, the facts of this case are required to be seen. The services of the petitioner were stated to be terminated during December, 1992 and he raised the present dispute after a period of more than 21 years. Moreover, no documentary evidence has been produced by the petitioner to prove that he had been visiting the respondent for his re-engagement during the period of 21 years. The burden of proof was upon the petitioner to show that the dispute was raised within a reasonable time and to offer an explanation to the satisfaction of this Court for the delay of 21 years caused in seeking reference but the petitioner has failed to discharge his burden. The reference is therefore stale and is liable to be rejected on the ground of delay in raising the dispute.

25. On merits, from the mandays chart Ex. RW-1/B, it is clear that the petitioner was engaged as daily waged Beldar by the respondent in the month of October, 1991 and he worked as such till April, 1992 for a period of 186 ½ days. The petitioner has failed to prove on record that he had worked for 240 days in preceding twelve months prior to his termination. There is no material on record which could show that the petitioner has completed 240 working days in

twelve calendar months preceding his termination. In ***2009 (120) FLR 1007 incase titled as Relip Nagarpalika*** Vs. ***Babuji Gabhaji Thakore and others***, the Hon'ble Supreme Court has held as under:

> ***"The burden of proof lies on the workman to show that he had worked continuously for 240 days for the preceding one year and it is for the workman to adduce evidence apart from examining himself to prove the factum of being in employment of the employer."***

In ***AIR 2006 S.C. 110 case titled as Surindernagar District Panchayat*** V/s ***Dayabhai Amar Singh, the*** Hon'ble Supreme Court has held that:—

> ***"Incase workman claims to have worked for more than 10 years as daily wager. Apart from oral evidence workman has not produced any evidence to prove fact that he has worked for 240 days. No proof of receipt of salary or wages or any record or order in that regard was produced: no co- worker was examined; muster roll produced by employer has not been contradicted. Workman has failed to discharge his burden that he was in employment for 240 days during preceding 12 months of date of termination of his service. Workman not entitled for protection of Section 25-F before his service was terminated."***

A bare perusal of the extract of the judgment re-produced, hereinabove, shows that the burden to prove completion of 240 days service lies on the workman and this burden is discharged on workman stepping in the witness box and adducing cogent evidence. However, in the instant case, the petitioner has failed to prove on record that he had put in 240 days in twelve calendar months preceding his termination. There is no *iota* of evidence which could go to show that the petitioner had completed 240 working days in twelve calendar months preceding his termination. Hence, the case of the petitioner does not fall under Section 25-F of the Industrial Disputes Act, 1947 and as such no protection of Section 25-F can be granted to the petitioner.

26. The learned counsel for the petitioner next contended that the respondent has taken the plea of abandonment in its reply but they have totally failed to establish such plea by producing any evidence on record. As pointed out earlier, the Hon'ble Supreme Court has held that the delay would certainly be fatal if it has resulted in material evidence relevant to the adjudication being lost and rendered unavailable. It has also been held by the **Hon'ble Supreme Court in 2009 (13) SCC 746** that the person supervising cannot be expected to prove after long delay that the employee/workman did not work for 240 days in a year or that he voluntarily left the job. It is difficult for the employer to obtain witness/es who would be competent to give evidence so many years later. It has further been held that lapse of time results in losing the remedy and the right as well and the delay in seeking the reference causes prejudice to both the employer and employee. In the present case also it would not be expected from the respondent to lead evidence and to bring witnesses or to place documents on record to prove after 21 years that the petitioner had abandoned the job at his own. The petitioner had raised the industrial dispute after lapse of about 21 years and remained silent during this period without any plausible explanation, and as such, no relief can be granted to him after a lapse of about 21 years as the delay in the present case is certainly fatal.

27. The learned counsel for the petitioner next contended that at the time of the termination of the petitioner, the respondent had retained his juniors and had engaged fresh hands who are still working as such the respondent had violated the principles of "last come first go". In cross-examination, RW-1 has admitted that some of the juniors to the petitioner were

regularized by the department but he volunteered that only those workers who have completed 240 days in a calendar year have been regularized. Moreover, as observed earlier, in the present case the petitioner has failed to complete 240 days in twelve calendar months preceding his termination and he had raised the demand notice after a period of 21 years as such there is no question of consideration of equal treatment with the junior persons who have allegedly been retained/regularized by the respondent. To take this view, I am fortified with the judgment of our own **Hon'ble High Court in CWP No. 4515/2012 decided on 13-6-2012, titled as Suraj Mani** Vs. **HPSEB** wherein it has been held that the petitioners cannot claim equal treatment after about two decades with the juniors who have allegedly been retained. The petitioner who slept for a long period of 21 years is not entitled to claim any relief on the ground of equal treatment. Since, the reference has been proved to be stale and belated as such the protection of Sections 25-G and 25-H of the Act cannot be granted to the petitioner. If the alleged termination of petitioner was either illegal or unjustified, he would not have kept silent for a period of 21 years.

28. Thus, keeping in view the above cited rulings and the material fact that the petitioner had raised the industrial dispute after lapse of about 21 years and remained silent during this period without any plausible explanation as such no relief can be granted to him. Hence, it cannot be said that the termination of the services of the petitioner is illegal and unjustified. Consequently, both these issues are decided againt the petitioner.

Issue No.2:

29. Since, the petitioner has failed to prove issue No.1, above, this issue becomes redundant.

Issue No.3.

30. In support of this issue, no evidence has been led by the respondent. However, the petitioner has filed this claim petition pursuant to the reference made by the appropriate government to this Court for adjudication and I find nothing wrong with this petition which is perfectly maintainable. Accordingly, this issue is decided in favour of the petitioner and against the respondent.

Relief.

As a sequel to my findings on the aforesaid issues, the claim of the petitioner fails and is hereby dismissed. Consequently, the reference stands answered against the petitioner and in favour of the respondent. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open Court today on this 28th Day of November, 2017.

SUSHIL KUKREJA,
Presiding Judge,
Industrial Tribunal-cum-*Labour Court, Shimla.*

IN THE COURT OF SHRI SUSHIL KUKREJA, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA

Ref. No. 74 of 2016

Instituted on 8-8-2016

Decided on 28-11-2017

Sunder Lal s/o Shri Bala Ram, r/o Village Dhar, P.O. Baldeyan, Tehsil and District Shimla, H.P. . .*Petitioner.*

VS.

1. The Registrar, Dr. Y.S. Parmar University of Horticulture & Forestry, Nauni, Distt. Solan, H.P.

2. The Executive Engineer, (PWD Wing), Dr. Y.S. Parmar University of Horticulture & Forestry, Nauni, Distt. Solan, H.P. . .*Respondents.*

Reference under Section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri Naresh Sharma, Advocate

For respondents : Shri Balwant Singh, Advocate

AWARD

The reference for adjudication, sent by the appropriate government, is as under:

"Whether alleged termination of services of Shri Sunder Lal s/o Shri Bala Ram, Village Dhar, P.O. Baldeyan, Tehsil & District Shimla, H.P. during November, 1980 by the i) The Registrar, Dr. Y.S. Parmar University of Horticulture and Forestry, Nauni, Distt. Solan, H.P. ii) The Executive Engineer, (PWD Wing) Dr. Y.S. Parmar University of Horticulture and Forestry, Nauni, Distt. Solan, H.P., who had worked as Beldar on daily wages only for 281 days in the year 1980 and has raised his industrial dispute after about 33 years allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period of 281 days in the years 1980 and delay of about 33 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer?"

2. Briefly, the case of the petitioner is that in the year, 1980 he was appointed as daily rated Class-IV employee with the respondents and worked as such till 1981 regularly and he had completed 240 days during each calendar year and thereafter his services were terminated without any reason. It is further stated that many juniors to the petitioner were retained and many fresh hands have been engaged after the termination of the petitioner in violation of the provisions of Sections 25-G and 25-H of the Industrial Disputes Act, 1947 (hereinafter referred as to Act). Against this back-drop a prayer has been made that the petitioner be ordered to be reinstated in service with all consequential benefits including seniority, continuity and back-wages.

3. By filing reply, the respondents contested the claim of the petitioner wherein preliminary objections have been taken that the claim is not sustainable in the present form

mainly on the ground of delay and latches, that the respondents university is an educational institution which does not fall under the jurisdiction of the Act and that the office record of the research station for the period *w.e.f.* Jan., 1974 to 28-10-1997 has been destroyed/weeded out after having completed the prescribed period of its retention. On merits, it has been asserted that the petitioner had worked as daily paid labourer at the research station for some period *w.e.f.* 29-1-1980 to 20-11-1980 and he had left the job/work at his own will after 20-11-1980 and never come to do work. It is further asserted that the other persons working with the petitioner remained continuously to work regularly and resultantly they were regularized at a later stage and now have retired or at the verge of their retirements. It is also asserted that the office record of the research station for the period *w.e.f.* Jan. 1974 to 28-10-1997 has been destroyed/weeded out after having completed the prescribed period of its retention as per Chapter 31.8 of Accounts Manual of the respondents university. It is denied that the provisions of Sections 25-F, 25-G and 25-H of the Act have been violated. The respondents prayed for the dismissal of the claim petition.

4. Rejoinder not filed. On the pleadings of the parties, the following issues were framed on 3-8-2017 :—

1. Whether the termination of the services of petitioner during November, 1980 without complying with the provisions of Industrial Disputes Act, 1947 is illegal and unjustified? . .*OPP.*

2. If issue No.1 is proved in affirmative, to what relief of service benefits the petitioner is entitled? . .*OPP.*

3. Whether the petition is not maintainable on the ground of delay and latches? . .*OPR.*

4. Relief.

5. I have heard the learned counsel for the parties and have also gone through the record of the case.

6. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under :

Issue No.1 : No

Issue No.2 : Becomes redundant

Issue No.3 Yes

Relief Reference answered in favour of the respondents and against the petitioner per operative part of award.

Reasons for findings

Issues No.1&3.

7. Being interlinked and correlated both these issues are taken up together for discussion and decision.

8. The learned counsel for the petitioner contended that the services of the petitioner had been terminated by the respondents illegally without serving him any notice as required under

Section 25-F of the Act especially when he had completed more than 240 days in each calendar year. He further contended that the junior persons to the petitioner are still working with the respondents and fresh workers have been engaged in violation of the provisions of Section 25-G and 25-H of the Act.

9. On the other hand, learned counsel for the respondents contended that the claim of the petitioner is highly belated and stale. He further contended that the services of the petitioner had never been terminated by the respondents who had left the job at his own and even he had not completed 240 days in any calendar year. He also contended that the office record of the research station for the period *w.e.f.* Jan., 1974 to 28-10-1997 has been destroyed/weeded out after having completed the prescribed period of its retention.

10. To prove issue No.1, the petitioner stepped into the witness box as PW-1 to depose that he was engaged by the respondents in the year 1980 as Beldar and worked for a period of 10 months in the year, 1980. He further deposed that he had completed 240 days in the calendar year and he was illegally terminated in the year, 1980 without issuance of any notice and payment of compensation. He also deposed that after his termination the respondents had engaged fresh hands namely Balwant Singh, Keshv, Gauru Dutt, Gulab and Bhom Prakash and on the day of his termination, one Shri Madan Lal was engaged as fresh hand and all the above named persons except Madan Lal are still working with the university. In cross-examination, he denied that he was never engaged by the respondents. He further denied that he was engaged under different projects for a period of 89 days. He also denied that he had not completed 240 days. He admitted that no appointment letter was issued by the respondents. He denied that his salary was being paid by the project.

11. PW-2 Shri Prem Ballabh, has deposed that he was engaged in the year, 1980 and he used to work with the respondents as labourer. He further deposed that the petitioner was also working with the respondents and many fresh persons have been engaged by the respondents after the year, 1980 and some of them are still working. In cross-examination, he admitted that he was working under the project. He further admitted that fresh hands have been engaged under the project.

12. PW-3 Shri Tulla Ram has stated that the petitioner was engaged by the respondents in the year, 1980 as Beldar and he worked for a period of 10 months in the year, 1980. He further stated that he was posted as Mali in the year, 1965 and worked till March, 2000 with the respondents. He also stated that the petitioner was working with him at Regional Fruit Research Station Mashobra and the services of the petitioner were illegally terminated without issuing any notice in the year, 1980 and thereafter new fresh hands were engaged by the respondents. In cross-examination, he denied that the petitioner was never engaged by the university. He admitted that no appointment letter was issued to the petitioner.

13. On the other hand, the respondents have examined Shri Niranjan Singh, Senior Assistant o/o RHR and TS Mashobra as RW-1 who deposed that the petitioner was engaged as daily wager on 29-1-1980 and he worked till 20-11-1980. He further deposed that the detail of attendance of the petitioner *w.e.f.* 29-1-1980 to 20-11-1980 is Mark RX. The petitioner was engaged under contingency plan and he had abandoned the job at this own after 20-11-1980. In cross-examination, he admitted that the petitioner was engaged on daily wages basis. He further admitted that many juniors to the petitioner namely Madan Lal, Balwant and Keshav have been retained. He also admitted that no notice was issued to the petitioner for resumption of his duties. He admitted that the petitioner had completed 240 days in a calendar year. He further admitted that neither any notice under Section 25-F of the Act was issued nor any compensation was given to the petitioner.

14. I have closely scrutinized the entire evidence, on record, and from the closer scrutiny thereof, it has become clear that the petitioner had worked only for 281 days as daily waged Beldar with the respondents during the entire period *w.e.f.* 29-1-1980 till 20-11-1980 as per detail of attendance mark RX. Now, the question which arises for consideration before this Court is as to whether the reference is stale and highly belated. The learned counsel for the petitioner contended that under the Industrial Disputes, no limitation is prescribed and the provision of Article 137 of the Limitation Act 1963 is not applicable to the proceedings under the Act and the relief under the Industrial Disputes Act cannot be denied to the workman merely on the ground of delay.

15. Undisputedly, the petitioner had raised his industrial dispute after a period of more than 33 years. According to the petitioner he was terminated During the year, 1994. It is also clear from the reference itself that the petitioner had raised the industrial dispute after more than 33 years. Therefore, the position of law in respect of a stale claim is required to be seen.

16. In (2013) 14 SCC 543, titled as Assistant Engineer Rajasthan State Agriculture Marketing Board, Sub Division Kota Vs. **Mohan Lal**, it has been held by the Hon'ble Apex Court that though the Limitation Act is not applicable to the reference made under the I.D Act but delay in raising industrial Dispute is an important circumstance for exercise of judicial discretion in determining relief that is to be granted. The relevant portion of aforesaid judgment is reproduced as under:

> "19. We are clearly of the view that though the Limitation Act, 1963 is not applicable to the reference made under the ID Act but delay in raising industrial dispute is definitely an important circumstance which the Labour Court must keep in view at the time of exercise of discretion irrespective of whether or not such objection has been raised by the other side. The legal position laid down by this Court in Gitam Singh that before exercising its judicial discretion, the Labour Court has to keep in view all relevant factors including the mode and manner of appointment, nature of employment, length of service, the ground on which termination has been set aside and the delay in raising industrial dispute before grant of relief in an industrial dispute, must be invariably followed."

17. In Assistant Executive Engineer, Karnataka Vs. **Shivalinga reported in (2002) 10 SCC 167**, the services of the employee were terminated on 25-5-1985 and he approached the Labour Officer on 17-3-1995 and then the reference was made by the Government to the Labour Court. There was a delay of more than nine years in approaching the Labour Officer. In para 6 of the aforesaid judgment, the Hon'ble Apex Court has held as under:

> "Learned counsel for the appellant strongly relied on the reasoning of the Labour Court and contended that the view of the High Court would not advance the cause of justice. Learned counsel for the respondent relied upon two decisions of this Court in Ajaib Singh *vs.* Sirhind Coop. Marketing-*cum*-Processing Service Society Ltd. (1999) 6 SCC 82 and Sapan Kumar Pandit *vs*. U.P. SEB (2001) 6 SCC 222 to contend that there is no period of limitation prescribed under the Industrial Disputes Act to raise the dispute and it is open to a party to approach the Court even belatedly and the Labour Court or the Industrial Tribunal can properly mould the relief by refusing or awarding part-payment of back wages. It is no doubt true that in appropriate cases, as held by this Court in the aforesaid two decisions, such steps could be taken by the Labour Court or the Industrial Tribunal, as the case may be, where there is no such dispute to relationship between the parties as employer and employee. In cases where there is a serious dispute, or doubt in such relationship and records of the employer become relevant, the long delay would

come in the way of maintenance of the same. In such circumstances to make them available to a Labour Court or the Industrial Tribunal to adjudicate the dispute appropriately will be impossible. A situation of that nature would render the claim to have become stale. That is exactly the situation arising in this case. In that view of the matter, we think the two decisions relied upon by the learned counsel have no application to the case on hand."

Thus, it has been held that in case there is a serious dispute or doubt in such relationship and the records of the employer become relevant, the long delay would come in the way of maintenance of the same.

18. ***In Haryana State Coop. Land Development Bank*** *Vs.* ***Neelam reported in (2005) 5 SCC 91,*** the employee was discontinued from service *w.e.f.* 30-5-1986 and he raised the demand notice on 30-9-1993 and thereafter the reference was sent to the Labour court by the appropriate government. The Labour Court passed an order answering the reference against the employee holding that the claim was belated. Thereafter, a writ petition was filed before the Hon'ble High Court which was allowed and the employee was directed to be reinstated in service with continuity of service but without back-wages. The Hon'ble Supreme Court set aside the judgment of the High Court and restored the judgment of the Labour Court as a result the reference stood answered against the workman. The relevant portion of the aforesaid judgment is reproduced as under:

13. "In Ajaib Singh (*supra*), the management did not raise any plea of delay. The Court observed that had such plea been raised, the workman would have been in a position to show the circumstances which prevented him in approaching the Court at an earlier stage or even to satisfy the Court that such a plea was not sustainable after the reference was made by the Government. In that case, the Labour Court granted the relief, but the same was denied to the workman only by the High Court. The Court referred to the purport and object of enacting Industrial Disputes Act only with a view to find out as to whether the provisions of the Article 137 of the Schedule appended to the Limitation Act, 1963 are applicable or not. Although, the Court cannot import a period of limitation when the statute does not prescribe the same, as was observed in Ajaib Singh (*supra*), but it does not mean that irrespective of facts and circumstances of each case, a stale claim must be entertained by the appropriate Government while making a reference or in a case where such reference is made the workman would be entitled to the relief at the hands of the Labour Court."

14. "The decision of Ajaib Singh (*supra*) must be held to have been rendered in the fact situation obtaining therein and no ratio of universal application can be culled out therefrom. A decision, as is well-known, is an authority of what it decides and not what can logically be deduced therefrom Bharat Forge Co. Ltd. *Vs.* Uttam Manohar Nakate, JT 2005 (1) SC 303], and Kalyan Chandra Sarkar *vs.* Rajesh Ranjan @ Pappu Yadav & Anr. para 42."

15" In Balbir Singh *vs.* Punjab Roadways and Another [(2001) 1 SCC 133], as regard Ajaib Singh (*supra*), this Court observed :

5. The learned counsel for the petitioner strenuously urged that the Tribunal committed error in denying relief to the workman merely on the ground of delay. The learned counsel submitted that in industrial dispute delay should not be taken as a ground for denying relief to the workman if the order/orders under challenge are found to be unsustainable in law. He placed reliance on the decision of this Court in

the case of Ajaib Singh *Vs.* Sirhind Coop. Marketing-*cum*-Processing Service Society Ltd. [(1999) 6 SCC 82 : 1999 SCC (L&S) 1054: JT (1999) 3 SC 38].

6. "We have carefully considered the contentions raised by the learned counsel for the petitioner. We have also perused the aforementioned decision. We do not find that any general principle as contended by the learned counsel for the petitioner has been laid down in that decision. The decision was rendered on the facts and circumstances of the case, particularly the fact that the plea of delay was not taken by the management in the proceeding before the Tribunal. In the case on hand the plea of delay was raised and was accepted by the Tribunal. Therefore, the decision cited is of little help in the present case. Whether relief to the workman should be denied on the ground of delay or it should be appropriately moulded is at the discretion of the Tribunal depending on the facts and circumstances of the case. No doubt the discretion is to be exercised judicially."

16. "Yet again in Assistant Executive Engineer, Karnataka *vs.* Shivalinga [(2002) 10 SCC 167], a Bench of this Court observed :

"6. Learned counsel for the appellant strongly relied on the reasoning of the Labour Court and contended that the view of the High Court would not advance the cause of justice. Learned counsel for the respondent relied upon two decisions of this Court in Ajaib Singh *Vs.* Sirhind Coop. Marketing-*cum*-Processing Service Society Ltd. (1999) 6 SCC 82 and Sapan Kumar Pandit *vs.* U.P. SEB (2001) 6 SCC 222 to contend that there is no period of limitation prescribed under the Industrial Disputes Act to raise the dispute and it is open to a party to approach the Court even belatedly and the Labour Court or the Industrial Tribunal can properly mould the relief by refusing or awarding part-payment of back wages. It is no doubt true that in appropriate cases, as held by this Court in the aforesaid two decisions, such steps could be taken by the Labour Court or the Industrial Tribunal, as the case may be, where there is no such dispute to relationship between the parties as employer and employee. In cases where there is a serious dispute, or doubt in such relationship and records of the employer become relevant, the long delay would come in the way of maintenance of the same. In such circumstances to make them available to a Labour Court or the Industrial Tribunal to adjudicate the dispute appropriately will be impossible. A situation of that nature would render the claim to have become stale. That is exactly the situation arising in this case. In that view of the matter, we think the two decisions relied upon by the learned counsel have no application to the case on hand."

17. "In Nedungadi Bank Ltd. (*supra*), a Bench of this Court, where S. Saghir Ahmad was a member [His Lordship was also a member in Ajaib Singh (*supra*) , opined :

"6. Law does not prescribe any time-limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service. At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale could not be the subject-matter of reference under Section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the

matter has become final, it appears to us to be rather incongruous that the reference be made under Section 10 of the Act in the circumstances like the present one. In fact it could be said that there was no dispute pending at the time when the reference in question was made." (*Emphasis supplied*).

19. In (2006) 5 SCC 433 in case titled as UP State Road Transport Corporation Vs. **Babu Ram**, the termination was dated 19-9-1983 and the reference was made on 29-8-1998. The Labour Court has held the termination as un-valid without considering the question of delay. The Hon'ble High Court dismissed the writ petition. The Hon'ble Supreme Court has held that no material was placed on record to show that the dispute was raised within reasonable time and the employee was not responsible for delay. The relevant portion of the aforesaid judgment is reproduced as under:

"10. It is to be noted that the High Court has very cryptically disposed of the writ petition. The workman has not placed any material to show that it had raised dispute within a reasonable time, and/or that he was not responsible for delayed decision if any in the conciliation proceedings. It was for him to show that the dispute was raised within a reasonable time and that he was not responsible for any delay. The High Court, on a hypothetical basis has assumed that the dispute might have been raised promptly but delayed by the State Government and he cannot be penalized for delay in finalizing the conciliation proceedings and the reference. But neither the Labour Court nor the High Court has even noted the factual position. The conclusion was based on surmises and conjectures."

20. In Assistant Engineer, CAD Kota Vs. **Dhan Kunwar reported in (2006) 5 SCC 481**, the delay was of about eight years in raising the dispute. The Labour Court granted reinstatement with 30 % back-wages. The writ petition and writ appeal filed by the employer were dismissed. However, the Hon'ble Apex Court set aside the judgments of Hon'ble High Court and the Labour Court and held that no relief should have been granted. The relevant portion of the aforesaid judgment is reproduced herein under:

"9. In the background of what has been stated above, the Labour Court should not have granted relief. Unfortunately, learned Single Judge and the Division Bench did not consider the issues in their proper perspective and arrived at abrupt conclusions without even indicating justifiable reasons……..

21. In **UP State Road Transport Corporation** Vs. **Ram Singh and another (2008) 17 SCC 627**, the termination was dated 15-3-1973 and the reference was dated 15-6-1986 and there was a delay of about 13 years in making the reference. The reference was dismissed on the ground of delay. The relevant portion of the aforesaid judgment reads as under:

"7. We are of the view that in the facts and circumstances of the case, the High Court erred in not setting aside the award of the Labour Court. Apart from the unacceptable manner in which the appellant was denied the opportunity of participating in the proceedings, including being debarred from cross-examining the respondent, the Labour Court could not have entertained the industrial dispute given the enormous delay. This Court has in several decisions has held that while delay cannot by itself be sufficient reason to reject an industrial dispute, never the less the delay cannot be un-reasonable. The decision in Prakash Chander Sahu has reaffirmed this principle. The reason for diligence and promptness lies in the fact that the records pertaining to an employee might have been destroyed and it would be difficult to obtain witnesses who would be competent to give evidence so many years later if the Labour Court wishes to hold a

further enquiry into the matter. In the present case, the delay of 13 years is unreasonable. The mere fact that the respondent was making repeated representations would not justify his raising the issue before the Labour Court after 13 years. In any event, the last representation was made in 1983 and the industrial dispute was admittedly raised in 1986. The lack of diligence on the part of the respondent is apparent."

22. In (2009) 13 SCC 746, State of Karnataka Vs. **Ravi Kumar** the Hon'ble Supreme Court dismissed the reference on the ground of delay and it was held that the person supervising could not be expected to prove after 14 years that the employee did not work or that he did not work for 240 days or he voluntarily left the job. The relevant portion of the aforesaid judgment reads as under:

"9. It is not possible to expect the Asstt. Executive Engineer to prove after 14 years that the daily wager did not work or that he did not work for 240 days in a year or that the daily wager voluntarily left the work……

23. In a recent judgment of our **Hon'ble High Court delivered in CWP No. 1912 of 2016 titled as Bego Devi** Versus **State of HP and others decided on 26-10-2016**, it has been held as under:

"9. **It is beaten law of land that delay takes away the settings of law. A person who does not seek relief within time, his petition has to be dismissed only on the grounds of delay and laches, otherwise, it would amount to gross misuse of jurisdiction and disturb the settled position".**

24. In view of the aforesaid law laid down by the Hon'ble Apex Court, it is clear that though the Court cannot import the period of limitation and the reference cannot be dismissed merely on the ground of delay, it does not mean that irrespective of the facts and circumstances of the case, a stale claim must be entertained and the relief should be granted. In the case of delay, no formula of universal application can be laid down and it would depend on the facts and circumstances of each case. The delay would certainly be fatal if it has resulted in material evidence relevant to the adjudication being lost and rendered unavailable. The onus of showing that the dispute was raised within a reasonable time is upon the workman and it is for the workman to explain the delay by furnishing the acceptable explanation to the satisfaction of the Court that he was not responsible for the delay caused. The fact that the workman was making repeated representations/requests is not sufficient to explain the delay.

25. Keeping in view the aforesaid principles laid down by the Hon'ble Apex Court, the facts of this case are required to be seen. The services of the petitioner were stated to be terminated during November, 1980 and he raised the present dispute after a period of more than 33 years. The burden of proof was upon the petitioner to show that the dispute was raised within a reasonable time and to offer an explanation to the satisfaction of this Court for the delay of 33 years caused in seeking reference but the petitioner has failed to discharge his burden. The reference is therefore stale and is liable to be rejected on the ground of delay in raising the dispute.

26. The learned counsel for the petitioner next contended that the respondents have taken the plea of abandonment in its reply but they have totally failed to establish such plea by producing any evidence on record. As pointed out earlier, the Hon'ble Supreme Court has held that the delay would certainly be fatal if it has resulted in material evidence relevant to the adjudication being lost and rendered unavailable. It has also been held by the **Hon'ble Supreme Court in 2009 (13) SCC 746** that the person supervising cannot be expected to prove after long delay that the employee/workman did not work for 240 days in a year or that he

voluntarily left the job. It is difficult for the employer to obtain witness/es who would be competent to give evidence so many years later. It has further been held that lapse of time results in losing the remedy and the right as well and the delay in seeking the reference causes prejudice to both the employer and employee. In the present case also it would not be expected from the respondents to lead evidence and to bring witnesses or to place documents on record to prove after 33 years that the petitioner had abandoned the job at his own. Moreover, in the reply it has been categorically mentioned by the respondents that the record *w.e.f.* Jan. 1974 to 28-10-1997 has been destroyed/weeded out after having completed the prescribed period of its retention as per chapter 31.8 of Accounts Manual of the respondents university. The petitioner had raised the industrial dispute after lapse of about 33 years and remained silent during this period without any plausible explanation, and as such, no relief can be granted to him after a lapse of about 33 years as the delay in the present case is certainly fatal.

27. The learned counsel for the petitioner next contended that the petitioner had completed 240 days in the calendar year and at the time of his termination, the respondents had retained his juniors and had engaged fresh hands who are still working as such the respondents had violated the provisions of sections 25-F, 25-G & 25-H of the Act. It is not disputed that the petitioner had completed 240 days in a calendar year as per the detail of attendance mark RX. In his cross-examination, RW-1 Shri Niranjan Singh has admitted that many juniors to the petitioner namely Madan Lal, Balwant and Keshav have been retained. However, he further stated that as the aforesaid persons were working regularly, therefore, they have been retained. Moreover, as observed earlier, the petitioner had raised the demand notice after a period of 33 years as such there is no question of consideration of equal treatment with the junior persons who have allegedly been retained. To take this view, I am fortified with the judgment of our own **Hon'ble High Court in CWP No. 4515/2012 decided on 13.6.2012, titled as Suraj Mani** Vs. **HPSEB** wherein it has been held that the petitioners cannot claim equal treatment after about two decades with the juniors who have allegedly been retained. The petitioner who slept for a long period of 33 years is not entitled to claim any relief on the ground of equal treatment. Since, the reference has been proved to be stale and belated as such the protection of sections 25-F, 25-G and 25- H of the Act cannot be granted to the petitioner. If the alleged termination of petitioner was either illegal or unjustified, he would not have kept silent for a period of 33 years.

28. Thus, keeping in view the above cited rulings and the material fact that the petitioner had raised the industrial dispute after lapse of about 33 years and remained silent during this period without any plausible explanation as such no relief can be granted to him. Hence, it cannot be said that the termination of the services of the petitioner is illegal and unjustified. Consequently, both these issues are decided against the petitioner.

Issue no.2 :

29. Since, the petitioner has failed to prove issue No.1, above, this issue becomes redundant.

Relief.

As a sequel to my findings on the aforesaid issues, the claim of the petitioner fails and is hereby dismissed. Consequently, the reference stands answered against the petitioner and in favour of the respondents. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open Court today on this 28th Day of November, 2017.

SUSHIL KUKREJA,
Presiding Judge,
Industrial Tribunal-cum- *Labour Court, Shimla.*

IN THE COURT OF SHRI SUSHIL KUKREJA, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA

Ref. No. 69 of 2016

Instituted on 2-8-2016

Decided on 22-11-2017

Narinder Kumar Sharma s/o Late Shri Padam Dev Sharma, r/o Village Drabla, P.O. Baldyan, Tehsil & District Shimla, H.P. . .*Petitioner.*

Vs

Additional Superintendent Engineer, H.P.S.E.B., Shimla Division No.1, District Shimla, H.P. . .*Respondent.*

Reference under Section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri Neel Kamal Sood, Advocate

For respondent : Ms. Kiran Mehta, Advocate *vice* Shri Ramakant Sharma, Advocate

AWARD

The reference for adjudication, sent by the appropriate government, is as under:

"Whether alleged termination of services of Shri Narinder Kumar Sharma s/o Shri Padam Dev Sharma r/o Village-Drabla, P.O. Baldyan, Teshil & Distt. Shimla, H.P. during January, 1994 by the Additional Superintending Engineer, Shimla Electrical Division No.1, HPSEB Ltd. Shimla, Distt. Shimla, H.P., who had worked for 124 days only during the years 1993-94 and has raised his industrial dispute after about 18, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view the working period of 124 days only and delay of about 18 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer?"

2. Briefly, the case of the petitioner is that initially *w.e.f.* 1992 he was appointed as Class-IV employee on daily wages basis with the respondent and worked as such till 1994 and thereafter his services were orally terminated without any reason and without serving any prior notice as

required under law and also without complying with the provisions of Industrial Disputes Act, 1947 (hereinafter referred as to Act). It is further stated that after the appointment of petitioner, he worked at various places under respondent and his services were terminated without serving any prior notice under Section 25-F of the Act and without paying any compensation. It is also stated that many juniors namely Molak Ram etc. to the petitioner were retained and their services had been regularized and the services of the petitioner have been terminated despite the fact that he had completed 240 days in twelve calendar months and even preceding to the date of his oral termination. It is stated that the petitioner made several requests seeking re-employment by visiting the office of the respondent number of times but of no avail. Against this back-drop a prayer has been made that directions be issued to the respondent to re-instate the petitioner in service alongwith all consequential service benefits including back-wages.

3. By filing reply, the respondent contested the claim of the petitioner wherein preliminary objections have been taken *qua* maintainability, suppression of material facts, that the claim is hopelessly barred by time, abandonment and estoppel. On merits, it has been asserted that the petitioner was engaged as Beldar on daily wages basis for a specific work, who worked for a brief spell since 26-5-1993 to 20-1-1994 and he was not serious towards his duties at the time of his engagement. It is further asserted that the petitioner had abandoned the job at his own without any intimation to the respondent and he had worked only for 103 days in different spells and there is no violation of Sections 25-B, 25-F, 25-G and 25-H of the Act. It is also asserted that the petitioner had not completed 240 days in any year and after his abandonment he had never visited the HPSEBL authorities for his re-engagement and no junior persons to him were engaged by the respondent. The respondent prayed for the dismissal of the claim petition.

4. By filing rejoinder, the petitioner reaffirmed his allegations by denying those of the respondent.

5. On the pleadings of the parties, the following issues were framed on 20-5-2017.

1. Whether the termination of the services of petitioner during Jan., 1994 without complying with the provisions of Industrial Disputes Act, 1947 is illegal and unjustified as alleged? . .*OPP.*

2. If issue No.1 is proved in affirmative, to what relief of service benefits the petitioner is entitled? . .*OPP.*

3. Whether the petition is not maintainable as alleged? . .*OPR.*

4. Relief.

6. I have heard the learned counsel for the parties and have also gone through the record of the case.

7. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under :

Issue No.1 No

Issue No.2 Becomes redundant

Issue no.3 No

Relief Reference answered in favour of the respondent and against the petitioner per operative part of award.

Reasons for findings

Issues No.1 :

8. The learned counsel for the petitioner contended that the services of the petitioner had been terminated by the respondent illegally without serving him any notice as required under Section 25-F of the Act especially when he had completed more than 240 days in each calendar year. He further contended that the junior persons to the petitioner are still working with the respondent and fresh workers have been engaged in violation of the provisions of Section 25-G and 25-H of the Act.

9. On the other hand, learned counsel for the respondent contended that the claim of the petitioner is highly belated and stale. He further contended that the services of the petitioner had never been terminated by the respondent who had left the job at his own and even he had not completed 240 days in any calendar year. He also contended that no junior to the petitioner had been retained and no fresh hands had been engaged by the respondent, hence, he is not entitled to any relief.

10. To prove issue No.1, the petitioner stepped into the witness box as PW-1 and tendered in evidence his affidavit Ex. PW-1/A wherein he reiterated almost all the averments as stated in the claim petition. He also tendered in evidence the copy of judgment passed by the Hon'ble High Court mark PX. In cross-examination, he denied that he had worked for 103 days in the year, 1994. He further denied that he had not completed 240 days in a calendar year. He also denied that he had left the job at his own. He admitted that he had raised the demand notice after a period of 23 years. He denied that the Board had not retained his juniors and had not engaged fresh hands.

11. PW-2 Shri Om Prakash, Clerk, o/o Electrical Sub Division Mashobra has produced the copy of mandays chart of petitioner Ex. PW-2/A and copy of seniority list Ex. PW-2/B. He further stated that the petitioner was engaged on 26-5-1993 and some of the persons mentioned in Ex. PW-2/B have been regularized and some of the persons mentioned in the list Ex. PW-2/B are the juniors to the petitioner and some are fresh hands. In cross-examination, he stated that the petitioner had only worked for 103 days in the year, 1993-94. He admitted that the petitioner has not completed 240 days in any calendar year and the juniors have been retained on the orders of the Court.

12. On the other hand, the respondent has examined Shri Hemant Kumar Sharma, Senior Assistant from the office of Electrical Division No.1, Kasumpati as RW-1 who stated that *vide* authority letter Ex. RW-1/A, he has been authorized to depose in the present case. He further stated that that the petitioner was engaged on 26-5-1993 and he worked till 20-1-1994 only for a period of 103 days. He also deposed that some juniors were retained after the dis-engagement of the petitioner by the order of the Court and no fresh hands were engaged after the disengagement of the petitioner and the petitioner had raised the demand notice after 16 years. In cross-examination, he admitted that neither any notice was given to the petitioner nor any compensation was paid to him prior to his termination. He further denied that junior persons have been retained and fresh hands have been engaged after the termination of the petitioner.

13. I have closely scrutinized the entire evidence, on record, and from the closer scrutiny thereof, it has become clear that the petitioner had worked only for 103 days as daily waged

Beldar with the respondent during the entire period *w.e.f.* 26-5-1993 to 20-1-1994 as per the mandays chart Ex. PW-2/A. Now, the question which arises for consideration before this Court is as to whether the reference is stale and highly belated. The learned counsel for the petitioner contended that under the Industrial Disputes, no limitation is prescribed and the provision of Article 137 of the Limitation Act 1963 is not applicable to the proceedings under the Act and the relief under the Industrial Disputes Act cannot be denied to the workman merely on the ground of delay.

14. Undisputedly, the petitioner had raised his industrial dispute after a period of more than 16 years. According to the petitioner he was terminated During the year, 1994. It is also clear from the reference itself that the petitioner had raised the industrial dispute after more than 16 years. Therefore, the position of law in respect of a stale claim is required to be seen.

15. In (2013) 14 SCC 543, titled as Assistant Engineer Rajasthan State Agriculture Marketing Board, Sub Division Kota Vs. **Mohan Lal**, it has been held by the Hon'ble Apex Court that though the Limitation Act is not applicable to the reference made under the I.D Act but delay in raising industrial Dispute is an important circumstance for exercise of judicial discretion in determining relief that is to be granted. The relevant portion of aforesaid judgment is reproduced as under:

> "19. We are clearly of the view that though the Limitation Act, 1963 is not applicable to the reference made under the ID Act but delay in raising industrial dispute is definitely an important circumstance which the Labour Court must keep in view at the time of exercise of discretion irrespective of whether or not such objection has been raised by the other side. The legal position laid down by this Court in Gitam Singh that before exercising its judicial discretion, the Labour Court has to keep in view all relevant factors including the mode and manner of appointment, nature of employment, length of service, the ground on which termination has been set aside and the delay in raising industrial dispute before grant of relief in an industrial dispute, must be invariably followed."

16. In Assistant Executive Engineer, Karnataka Vs. **Shivalinga reported in (2002) 10 SCC 167**, the services of the employee were terminated on 25-5-1985 and he approached the Labour Officer on 17-3-1995 and then the reference was made by the Government to the Labour Court. There was a delay of more than nine years in approaching the Labour Officer. In para 6 of the aforesaid judgment, the Hon'ble Apex Court has held as under:

> "Learned counsel for the appellant strongly relied on the reasoning of the Labour Court and contended that the view of the High Court would not advance the cause of justice. Learned counsel for the respondent relied upon two decisions of this Court in Ajaib Singh *vs.* Sirhind Coop. Marketing-*cum*-Processing Service Society Ltd. (1999) 6 SCC 82 and Sapan Kumar Pandit *vs.* U.P. SEB (2001) 6 SCC 222 to contend that there is no period of limitation prescribed under the Industrial Disputes Act to raise the dispute and it is open to a party to approach the Court even belatedly and the Labour Court or the Industrial Tribunal can properly mould the relief by refusing or awarding part-payment of back wages. It is no doubt true that in appropriate cases, as held by this Court in the aforesaid two decisions, such steps could be taken by the Labour Court or the Industrial Tribunal, as the case may be, where there is no such dispute to relationship between the parties as employer and employee. In cases where there is a serious dispute, or doubt in such relationship and records of the employer become relevant, the long delay would come in the way of maintenance of the same. In such circumstances to make them available to a Labour Court or the Industrial Tribunal to adjudicate the dispute

appropriately will be impossible. A situation of that nature would render the claim to have become stale. That is exactly the situation arising in this case. In that view of the matter, we think the two decisions relied upon by the learned counsel have no application to the case on hand."

Thus, it has been held that in case there is a serious dispute or doubt in such relationship and the records of the employer become relevant, the long delay would come in the way of maintenance of the same.

17. ***In Haryana State Coop. Land Development Bank*** *Vs.* ***Neelam reported in (2005) 5 SCC 91,*** the employee was discontinued from service *w.e.f.* 30-5-1986 and he raised the demand notice on 30-9-1993 and thereafter the reference was sent to the Labour court by the appropriate government. The Labour Court passed an order answering the reference against the employee holding that the claim was belated. Thereafter, a writ petition was filed before the Hon'ble High Court which was allowed and the employee was directed to be reinstated in service with continuity of service but without back-wages. The Hon'ble Supreme Court set aside the judgment of the High Court and restored the judgment of the Labour Court as a result the reference stood answered against the workman. The relevant portion of the aforesaid judgment is reproduced as under:

13. "In Ajaib Singh (*supra*), the management did not raise any plea of delay. The Court observed that had such plea been raised, the workman would have been in a position to show the circumstances which prevented him in approaching the Court at an earlier stage or even to satisfy the Court that such a plea was not sustainable after the reference was made by the Government. In that case, the Labour Court granted the relief, but the same was denied to the workman only by the High Court. The Court referred to the purport and object of enacting Industrial Disputes Act only with a view to find out as to whether the provisions of the Article 137 of the Schedule appended to the Limitation Act, 1963 are applicable or not. Although, the Court cannot import a period of limitation when the statute does not prescribe the same, as was observed in Ajaib Singh (*supra*), but it does not mean that irrespective of facts and circumstances of each case, a stale claim must be entertained by the appropriate Government while making a reference or in a case where such reference is made the workman would be entitled to the relief at the hands of the Labour Court."

14. "The decision of Ajaib Singh (*supra*) must be held to have been rendered in the fact situation obtaining therein and no ratio of universal application can be culled out therefrom. A decision, as is well-known, is an authority of what it decides and not what can logically be deduced therefrom Bharat Forge Co. Ltd. *Vs.* Uttam Manohar Nakate, JT 2005 (1) SC 303], and Kalyan Chandra Sarkar *Vs.* Rajesh Ranjan @ Pappu Yadav & Anr. para 42."

15" In Balbir Singh *vs.* Punjab Roadways and Another [(2001) 1 SCC 133], as regard Ajaib Singh (*supra*), this Court observed :

5." The learned counsel for the petitioner strenuously urged that the Tribunal committed error in denying relief to the workman merely on the ground of delay. The learned counsel submitted that in industrial dispute delay should not be taken as a ground for denying relief to the workman if the order/orders under challenge are found to be unsustainable in law. He placed reliance on the decision of this Court in the case of Ajaib Singh *v.* Sirhind Coop. Marketing-*cum*-Processing Service Society Ltd. [(1999) 6 SCC 82 : 1999 SCC (L&S) 1054: JT (1999) 3 SC 38].

6. "We have carefully considered the contentions raised by the learned counsel for the petitioner. We have also perused the aforementioned decision. We do not find that any general principle as contended by the learned counsel for the petitioner has been laid down in that decision. The decision was rendered on the facts and circumstances of the case, particularly the fact that the plea of delay was not taken by the management in the proceeding before the Tribunal. In the case on hand the plea of delay was raised and was accepted by the Tribunal. Therefore, the decision cited is of little help in the present case. Whether relief to the workman should be denied on the ground of delay or it should be appropriately moulded is at the discretion of the Tribunal depending on the facts and circumstances of the case. No doubt the discretion is to be exercised judicially."

16. "Yet again in Assistant Executive Engineer, Karnataka *vs.* Shivalinga [(2002) 10 SCC 167], a Bench of this Court observed :

"6. Learned counsel for the appellant strongly relied on the reasoning of the Labour Court and contended that the view of the High Court would not advance the cause of justice. Learned counsel for the respondent relied upon two decisions of this Court in Ajaib Singh *vs.* Sirhind Coop. Marketing-*cum*-Processing Service Society Ltd. (1999) 6 SCC 82 and Sapan Kumar Pandit *vs.* U.P. SEB (2001) 6 SCC 222 to contend that there is no period of limitation prescribed under the Industrial Disputes Act to raise the dispute and it is open to a party to approach the Court even belatedly and the Labour Court or the Industrial Tribunal can properly mould the relief by refusing or awarding part-payment of back wages. It is no doubt true that in appropriate cases, as held by this Court in the aforesaid two decisions, such steps could be taken by the Labour Court or the Industrial Tribunal, as the case may be, where there is no such dispute to relationship between the parties as employer and employee. In cases where there is a serious dispute, or doubt in such relationship and records of the employer become relevant, the long delay would come in the way of maintenance of the same. In such circumstances to make them available to a Labour Court or the Industrial Tribunal to adjudicate the dispute appropriately will be impossible. A situation of that nature would render the claim to have become stale. That is exactly the situation arising in this case. In that view of the matter, we think the two decisions relied upon by the learned counsel have no application to the case on hand."

17. "In Nedungadi Bank Ltd. (*supra*), a Bench of this Court, where S. Saghir Ahmad was a member [His Lordship was also a member in Ajaib Singh (*supra*) , opined :

"6. Law does not prescribe any time-limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service. At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale could not be the subject-matter of reference under Section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final, it appears to us to be rather incongruous that the reference be made under Section 10 of the Act in the circumstances like the present one. In fact it could be said that there was no dispute pending at the time when the reference in question was made." (*Emphasis supplied*).

18. In (2006) 5 SCC 433 in case titled as UP State Road Transport Corporation Vs. **Babu Ram**, the termination was dated 19-9-1983 and the reference was made on 29-8-1998. The Labour Court has held the termination as un-valid without considering the question of delay. The Hon'ble High Court dismissed the writ petition. The Hon'ble Supreme Court has held that no material was placed on record to show that the dispute was raised within reasonable time and the employee was not responsible for delay. The relevant portion of the aforesaid judgment is reproduced as under:

> "10. It is to be noted that the High Court has very cryptically disposed of the writ petition. The workman has not placed any material to show that it had raised dispute within a reasonable time, and/or that he was not responsible for delayed decision if any in the conciliation proceedings. It was for him to show that the dispute was raised within a reasonable time and that he was not responsible for any delay. The High Court, on a hypothetical basis has assumed that the dispute might have been raised promptly but delayed by the State Government and he cannot be penalized for delay in finalizing the conciliation proceedings and the reference. But neither the Labour Court nor the High Court has even noted the factual position. The conclusion was based on surmises and conjectures."

19. In Assistant Engineer, CAD Kota Vs. **Dhan Kunwar reported in (2006) 5 SCC 481**, the delay was of about eight years in raising the dispute. The Labour Court granted reinstatement with 30 % back-wages. The writ petition and writ appeal filed by the employer were dismissed. However, the Hon'ble Apex Court set aside the judgments of Hon'ble High Court and the Labour Court and held that no relief should have been granted. The relevant portion of the aforesaid judgment is reproduced herein under:

> "9. In the background of what has been stated above, the Labour Court should not have granted relief. Unfortunately, learned Single Judge and the Division Bench did not consider the issues in their proper perspective and arrived at abrupt conclusions without even indicating justifiable reasons……..

20. In UP State Road Transport Corporation Vs. **Ram Singh and another (2008) 17 SCC 627**, the termination was dated 15-3-1973 and the reference was dated 15-6-1986 and there was a delay of about 13 years in making the reference. The reference was dismissed on the ground of delay. The relevant portion of the aforesaid judgment reads as under:

> "7. We are of the view that in the facts and circumstances of the case, the High Court erred in not setting aside the award of the Labour Court. Apart from the unacceptable manner in which the appellant was denied the opportunity of participating in the proceedings, including being debarred from cross-examining the respondent, the Labour Court could not have entertained the industrial dispute given the enormous delay. This Court has in several decisions has held that while delay cannot by itself be sufficient reason to reject an industrial dispute, never the less the delay cannot be un-reasonable. The decision in Prakash Chander Sahu has reaffirmed this principle. The reason for diligence and promptness lies in the fact that the records pertaining to an employee might have been destroyed and it would be difficult to obtain witnesses who would be competent to give evidence so many years later if the Labour Court wishes to hold a further enquiry into the matter. In the present case, the delay of 13 years is unreasonable. The mere fact that the respondent was making repeated representations would not justify his raising the issue before the Labour Court after 13 years. In any event, the last representation was made in 1983 and the industrial dispute was admittedly raised in 1986. The lack of diligence on the part of the respondent is apparent."

21. In (2009) 13 SCC 746, State of Karnataka Vs. **Ravi Kumar** the Hon'ble Supreme Court dismissed the reference on the ground of delay and it was held that the person supervising could not be expected to prove after 14 years that the employee did not work or that he did not work for 240 days or he voluntarily left the job. The relevant portion of the aforesaid judgment reads as under:

> "9. It is not possible to expect the Asstt. Executive Engineer to prove after 14 years that the daily wager did not work or that he did not work for 240 days in a year or that the daily wager voluntarily left the work……

22. In a recent judgment of our **Hon'ble H igh Court delivered in CWP No. 1912 of 2016 titled as Bego Devi** Versus **State of HP and others decided on 26-10-2016**, it has been held as under:

> "9. **It is beaten law of land that delay takes away the settings of law. A person who does not seek relief within time, his petition has to be dismissed only on the grounds of delay and laches, otherwise, it would amount to gross misuse of jurisdiction and disturb the settled position".**

23. In view of the aforesaid law laid down by the Hon'ble Apex Court, it is clear that though the Court cannot import the period of limitation and the reference cannot be dismissed merely on the ground of delay, it does not mean that irrespective of the facts and circumstances of the case, a stale claim must be entertained and the relief should be granted. In the case of delay, no formula of universal application can be laid down and it would depend on the facts and circumstances of each case. The delay would certainly be fatal if it has resulted in material evidence relevant to the adjudication being lost and rendered unavailable. The onus of showing that the dispute was raised within a reasonable time is upon the workman and it is for the workman to explain the delay by furnishing the acceptable explanation to the satisfaction of the Court that he was not responsible for the delay caused. The fact that the workman was making repeated representations/requests is not sufficient to explain the delay.

24. Keeping in view the aforesaid principles laid down by the Hon'ble Apex Court, the facts of this case are required to be seen. The services of the petitioner were stated to be terminated during 1994 and he raised the present dispute after a period of more than 16 years. In his evidence by way of affidavit Ex. PW-1/A, the petitioner has averred that after his termination he was assured that on the availability of work and funds, he would be re-engaged but despite assurance given by the respondent, he was not reinstated. However, except for his bald statement there is no other evidence on record to suggest as to when the respondent had given him assurance. No documentary evidence has been produced by the petitioner to prove that he had been visiting the respondent for his re-engagement during the period of 16 years. In the opinion of this Court, the explanation furnished by the petitioner for not raising the demand notice within a reasonable period cannot be accepted. The burden of proof was upon the petitioner to show that the dispute was raised within a reasonable time and to offer an explanation to the satisfaction of this Court for the delay of 16 years caused in seeking reference but the petitioner has failed to discharge his burden. The reference is therefore stale and is liable to be rejected on the ground of delay in raising the dispute.

25. On merits, from the mandays chart Ex. PW-2/A, it is clear that the petitioner was engaged as daily waged Beldar by the respondent on 26-5-1993 and he worked as such till 20-1-1994 for a period of 103 days. The petitioner has failed to prove on record that he had worked for 240 days in preceding twelve months prior to his termination. There is no material on record which could show that the petitioner has completed 240 working days in twelve calendar

months preceding his termination. In ***2009 (120) FLR 1007 incase titled as Relip Nagarpalika Vs. Babuji Gabhaji Thakore and others*** , the Hon'ble Supreme Court has held as under:

> ***"The burden of proof lies on the workman to show that he had worked continuously for 240 days for the preceding one year and it is for the workman to adduce evidence apart from examining himself to prove the factum of being in employment of the employer."***

In ***AIR 2006 S.C. 110 case titled as Surindernagar District Panchyat*** *V/s* ***Dayabhai Amar Singh, the*** Hon'ble Supreme Court has held that:—

> ***"Incase workman claims to have worked for more than 10 years as daily wager. Apart from oral evidence workman has not produced any evidence to prove fact that he has worked for 240 days. No proof of receipt of salary or wages or any record or order in that regard was produced: no co- worker was examined; muster roll produced by employer has not been contradicted. Workman has failed to discharge his burden that he was in employment for 240 days during preceding 12 months of date of termination of his service. Workman not entitled for protection of Section 25-F before his service was terminated."***

A bare perusal of the extract of the judgment re-produced, hereinabove, shows that the burden to prove completion of 240 days service lies on the workman and this burden is discharged on workman stepping in the witness box and adducing cogent evidence. However, in the instant case, the petitioner has failed to prove on record that he had put in 240 days in twelve calendar months preceding his termination. There is no *iota* of evidence which could go to show that the petitioner had completed 240 working days in twelve calendar months preceding his termination. Hence, the case of the petitioner does not fall under Section 25-F of the Industrial Disputes Act, 1947 and as such no protection of Section 25-F can be granted to the petitioner.

26. The learned counsel for the petitioner next contended that the respondent has taken the plea of abandonment in its reply but they have totally failed to establish such plea by producing any evidence on record. As pointed out earlier, the Hon'ble Supreme Court has held that the delay would certainly be fatal if it has resulted in material evidence relevant to the adjudication being lost and rendered unavailable. It has also been held by the **Hon'ble Supreme Court in 2009 (13) SCC 746** that the person supervising cannot be expected to prove after long delay that the employee/workman did not work for 240 days in a year or that he voluntarily left the job. It is difficult for the employer to obtain witness/es who would be competent to give evidence so many years later. It has further been held that lapse of time results in losing the remedy and the right as well and the delay in seeking the reference causes prejudice to both the employer and employee. In the present case also it would not be expected from the respondent to lead evidence and to bring witnesses or to place documents on record to prove after 16 years that the petitioner had abandoned the job at his own. The petitioner had raised the industrial dispute after lapse of about 16 years and remained silent during this period without any plausible explanation, and as such, no relief can be granted to him after a lapse of about 16 years as the delay in the present case is certainly fatal.

27. The learned counsel for the petitioner next contended that at the time of the termination of the petitioner, the respondent had retained his juniors and had engaged fresh hands who are still working as such the respondent had violated the principles of "last come first go". In his deposition, Shri Om Prakash PW-2, has tendered in evidence the seniority list Ex. PW-2/B. However, as observed earlier, the petitioner had raised the demand notice after a period of 16

years as such there is no question of consideration of equal treatment with the junior persons who have allegedly been shown in Ex. PW-2/B. To take this view, I am fortified with the judgment of our own **Hon'ble High Court in CWP No. 4515/2012 decided on 13-6-2012, titled as Suraj Mani** *Vs.* **HPSEB** wherein it has been held that the petitioners cannot claim equal treatment after about two decades with the juniors who have allegedly been retained. The petitioner who slept for a long period of 16 years is not entitled to claim any relief on the ground of equal treatment. Since, the reference has been proved to be stale and belated as such the protection of sections 25-G and 25-H of the Act cannot be granted to the petitioner. If the alleged termination of petitioner was either illegal or unjustified, he would not have kept silent for a period of 16 years.

28. Thus, keeping in view the above cited rulings and the material fact that the petitioner had raised the industrial dispute after lapse of about 16 years and remained silent during this period without any plausible explanation as such no relief can be granted to him. Hence, it cannot be said that the termination of the services of the petitioner is illegal and unjustified. Consequently, issue no.1 is decided accordingly.

Issue No.2:

29. Since, the petitioner has failed to prove issue No.1, above, this issue becomes redundant.

Issue No.3 :

30. In support of this issue, no evidence has been led by the respondent. However, the petitioner has filed this claim petition pursuant to the reference made by the appropriate government to this Court for adjudication and I find nothing wrong with this petition which is perfectly maintainable. Accordingly, this issue is decided in favour of the petitioner and against the respondent.

Relief

As a sequel to my findings on the aforesaid issues, the claim of the petitioner fails and is hereby dismissed. Consequently, the reference stands answered against the petitioner and in favour of the respondent. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open Court today on this 22nd Day of November, 2017.

SUSHIL KUKREJA,
Presiding Judge,
Industrial Tribunal-cum-*Labour Court, Shimla.*

IN THE COURT OF SUSHIL KUKREJA, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA

Ref. No. 75 of 2016

Instituted on 8-8-2016

Decided on 27-11-2017

Jagat Ram S/o Shri Kripa Ram r/o Village & P.O Shakra Tehsil Karsog, District Mandi, HP. . .*Petitioner.*

Vs

The Resident Engineer, HPSEB Division Jeori, Ganvi Power House, District Shimla, HP. . .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri Naresh Sharma, Advocate

For respondent : Ms. Kiran Mehta, Advocate vice Shri Ramakant Sharma, Advocate

AWARD

The reference for adjudication, sent by the appropriate government, is as under:

"Whether alleged termination of services of Shri Jagat Ram s/o Shri Kirpa Ram, r/o Village & P.O. Shakra, Tehsil Karsog, Distt. Mandi during March, 1995 by the Prsident Engineer, Ganvi Power House Division, HPSEB Jeori, Distt. Shimla, H.P., who had worked for 51 days only during 1995 and has raised his industrial dispute after more than 14 years, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view the working period of 51 days only and delay of more than 14 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer?"

2. Briefly, the case of the petitioner is that initially *w.e.f.* 1995 he was appointed as Class-IV employee on daily wages basis with the respondent and worked as such till 1996 and thereafter his services were orally terminated without any reason and without serving any prior notice as required under law and also without complying with the provisions of Industrial Disputes Act, 1947 (hereinafter referred as to Act). It is further stated that after the appointment of petitioner, he worked at various places under respondent and his services were terminated without serving any prior notice under Section 25-F of the Act and without paying any compensation. It is also stated that many juniors namely Geeta Ram, Om Dutt, Girdhari Lal, Lal Chand, Ravinder Kumar, Kumar Lal, Umed Ram, Kanshi Ram, Om Prakash, Jiva Nand and Ranveer Singh to the petitioner were retained violating the provisions of Sections 25-G and 25-H of the Act and their services had been regularized and the services of the petitioner have been terminated despite the fact that he had completed 240 days in twelve calendar months and even preceding to the date of his oral termination. It is stated that the petitioner made several requests seeking re-employment by visiting the office of the respondent number of times but of no avail. Against this back-drop a prayer has been made that directions be issued to the respondent to re-instate the petitioner in service along-with all consequential service benefits including back-wages.

3. By filing reply, the respondent contested the claim of the petitioner wherein preliminary objections have been taken *qua* maintainability, suppression of material facts, that the claim is hopelessly barred by time, suppression of material facts, and estoppel. On merits, it has been asserted that the petitioner was initially engaged on 25-1-1995 and worked as such till 24-3-1995. It is further asserted that since the petitioner had not completed 240 days in each

calendar year, hence, he is not entitled for any prior notice as required under the Act. It is denied that the persons junior to the petitioner were retained and after terminating his services, fresh hands were engaged. It is asserted that the alleged names of juniors referred by the petitioner are senior to him and moreover the petitioner had left the job at his own and after his abandonment he had never visited the HPSEBL authorities for his re-engagement. The respondent prayed for the dismissal of the claim petition.

4. Rejoinder not filed. On the pleadings of the parties, the following issues were framed on 14.6.2017.

1. Whether the termination of the services of petitioner during March, 1995 without complying with the provisions of Industrial Disputes Act, 1947 is illegal and unjustified as alleged? . .*OPP.*

2. If issue No.1 is proved in affirmative, to what relief of service benefits the petitioner is entitled? . .*OPP.*

3. Whether the petition time barred as alleged? . .*OPR.*

4. Whether the petition is not maintainable as alleged? . .*OPR.*

5. Relief.

5. I have heard the learned counsel for the parties and have also gone through the record of the case.

6. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under :

Issue No.1 No

Issue No.2 Becomes redundant

Issue No.3 Yes

Issue No.4 No

Relief Reference answered in favour of the respondent and against the petitioner per operative part of award.

Reasons for findings

Issues No.1 & 3.

7. Being interlinked and correlated both these issues are taken up together for discussion and decision.

8. The learned counsel for the petitioner contended that the services of the petitioner had been terminated by the respondent illegally without serving him any notice as required under Section 25-F of the Act especially when he had completed more than 240 days in each calendar year. He further contended that the junior persons to the petitioner are still working with the respondent and fresh workers have been engaged in violation of the provisions of Section 25-G and 25-H of the Act.

9. On the other hand, learned *vice* counsel for the respondent contended that the claim of the petitioner is highly belated and stale. She further contended that the services of the petitioner had never been terminated by the respondent who had left the job at his own and even he had not completed 240 days in any calendar year. She also contended that no junior to the petitioner had been retained and no fresh hands had been engaged by the respondent, hence, he is not entitled to any relief.

10. To prove issue No.1, the petitioner stepped into the witness box as PW-1 and tendered in evidence his affidavit Ex. PW-1/A wherein he reiterated almost all the averments as stated in the claim petition. He also tendered in evidence the copy of judgment passed by the Hon'ble High Court in CWP No. 764 of 2016 mark PX, final seniority list of T-mate as on 1-1-2016 mark PX-1 and final seniority list of T-mate as on 1-1-1998 mark PX-2. In cross-examination, he admitted that he was engaged by the board on 25-1-1995 on muster roll basis. He denied that he had worked till 24-3-1995 only for 51 days. He further denied that he had not completed 240 days in any calendar year and that he had left the job at his own and he was called by the board to resume the duties. He admitted that he had raised the demand notice after 14 years. He denied that no junior was retained and no fresh hands have been engaged by the board.

11. PW-2 Shri Besar Lal, Junior Engineer, HPSEB Power House Chaba has produced the copy of muster rolls No. 208 of 1995 and 189/94-95 mark P-1 and mark P-2. He deposed that Ghanvi Electrical Division came into existence in October, 1997 and Chaba Sub Division was under the Shimla Electrical Division No.1 prior to the year, 1997. In cross-examination, he admitted that the petitioner had worked only for 51 days. He further admitted that the petitioner had never completed 240 days in any calendar year and no junior to him was retained.

12. On the other hand, the respondent has examined one Shri Jagdish Chand, Junior Engineer, HPSEB Power House Chaba as RW-1 who stated that the petitioner was engaged on muster roll baiss on 25.1.1995 and he worked till 24-2-1995 for 26 days and thereafter he had worked *w.e.f.* 25-2-1995 to 24-3-1995 for 25 days. The petitioner had never completed 240 days in a calendar year and he had never worked in Jeori Division. He further deposed that the seniority of Jagat Ram etc. was maintained earlier at Division No.2 Shimla and in the year, 1997 they had come under Chaba Sub Division and prior to 1997 Jagat Ram etc. had worked under Electrical Division No.2 Shimla. He also deposed that no junior to the petitioner had been retained under Ghanvi Division. In cross-examination, he denied that the petitioner had completed 240 days in a calendar year. He further denied that many juniors to the petitioner have been retained and have been regularized. He admitted that no notice was issued to the petitioner for resumption of his duties. He further admitted that no notice under section 25-F, 25-G and 25-H was issued to the petitioner and no compensation was given to him.

13. I have closely scrutinized the entire evidence, on record, and from the closer scrutiny thereof, it has become clear that the petitioner had worked only for 51 days as daily waged Beldar with the respondent during the entire period *w.e.f.* 25-1-1995 to 24-3-1995. Now, the question which arises for consideration before this Court is as to whether the reference is stale and highly belated. The learned counsel for the petitioner contended that under the Industrial Disputes, no limitation is prescribed and the provision of Article 137 of the Limitation Act 1963 is not applicable to the proceedings under the Act and the relief under the Industrial Disputes Act cannot be denied to the workman merely on the ground of delay.

14. Undisputedly, the petitioner had raised his industrial dispute after a period of more than 14 years. According to the petitioner he was terminated During the year, 1996 but he has failed to produce on record any material which could go to show that he had worked with the respondent till 1996. As per reference sent by the appropriate government to this Court the

services of the petitioner were stated to be terminated during March, 1995. It is also clear from the reference itself that the petitioner had raised the industrial dispute after more than 14 years. Therefore, the position of law in respect of a stale claim is required to be seen.

15. **In (2013) 14 SCC 543, titled as Assistant Engineer Rajasthan State Agriculture Marketing Board, Sub Division Kota** Vs. **Mohan Lal**, it has been held by the Hon'ble Apex Court that though the Limitation Act is not applicable to the reference made under the I.D Act but delay in raising industrial Dispute is an important circumstance for exercise of judicial discretion in determining relief that is to be granted. The relevant portion of aforesaid judgment is reproduced as under:

> "19. We are clearly of the view that though the Limitation Act, 1963 is not applicable to the reference made under the ID Act but delay in raising industrial dispute is definitely an important circumstance which the Labour Court must keep in view at the time of exercise of discretion irrespective of whether or not such objection has been raised by the other side. The legal position laid down by this Court in Gitam Singh that before exercising its judicial discretion, the Labour Court has to keep in view all relevant factors including the mode and manner of appointment, nature of employment, length of service, the ground on which termination has been set aside and the delay in raising industrial dispute before grant of relief in an industrial dispute, must be invariably followed."

16. In Assistant Executive Engineer, Karnataka *Vs.* **Shivalinga reported in (2002) 10 SCC 167**, the services of the employee were terminated on 25-5-1985 and he approached the Labour Officer on 17-3-1995 and then the reference was made by the Government to the Labour Court. There was a delay of more than nine years in approaching the Labour Officer. In para 6 of the aforesaid judgment, the Hon'ble Apex Court has held as under:

> "Learned counsel for the appellant strongly relied on the reasoning of the Labour Court and contended that the view of the High Court would not advance the cause of justice. Learned counsel for the respondent relied upon two decisions of this Court in Ajaib Singh *vs.* Sirhind Coop. Marketing-*cum*-Processing Service Society Ltd. (1999) 6 SCC 82 and Sapan Kumar Pandit *vs.* U.P. SEB (2001) 6 SCC 222 to contend that there is no period of limitation prescribed under the Industrial Disputes Act to raise the dispute and it is open to a party to approach the Court even belatedly and the Labour Court or the Industrial Tribunal can properly mould the relief by refusing or awarding part-payment of back wages. It is no doubt true that in appropriate cases, as held by this Court in the aforesaid two decisions, such steps could be taken by the Labour Court or the Industrial Tribunal, as the case may be, where there is no such dispute to relationship between the parties as employer and employee. In cases where there is a serious dispute, or doubt in such relationship and records of the employer become relevant, the long delay would come in the way of maintenance of the same. In such circumstances to make them available to a Labour Court or the Industrial Tribunal to adjudicate the dispute appropriately will be impossible. A situation of that nature would render the claim to have become stale. That is exactly the situation arising in this case. In that view of the matter, we think the two decisions relied upon by the learned counsel have no application to the case on hand."

Thus, it has been held that in case there is a serious dispute or doubt in such relationship and the records of the employer become relevant, the long delay would come in the way of maintenance of the same.

17. ***In Haryana State Coop. Land Development Bank*** *Vs.* ***Neelam reported in (2005) 5 SCC 91,*** the employee was discontinued from service *w.e.f.* 30-5-1986 and he raised the demand notice on 30-9-1993 and thereafter the reference was sent to the Labour Court by the appropriate government. The Labour Court passed an order answering the reference against the employee holding that the claim was belated. Thereafter, a writ petition was filed before the Hon'ble High Court which was allowed and the employee was directed to be reinstated in service with continuity of service but without back-wages. The Hon'ble Supreme Court set aside the judgment of the High Court and restored the judgment of the Labour Court as a result the reference stood answered against the workman. The relevant portion of the aforesaid judgment is reproduced as under:

> 13. "In Ajaib Singh (*supra*), the management did not raise any plea of delay. The Court observed that had such plea been raised, the workman would have been in a position to show the circumstances which prevented him in approaching the Court at an earlier stage or even to satisfy the Court that such a plea was not sustainable after the reference was made by the Government. In that case, the Labour Court granted the relief, but the same was denied to the workman only by the High Court. The Court referred to the purport and object of enacting Industrial Disputes Act only with a view to find out as to whether the provisions of the Article 137 of the Schedule appended to the Limitation Act, 1963 are applicable or not. Although, the Court cannot import a period of limitation when the statute does not prescribe the same, as was observed in Ajaib Singh (*supra*), but it does not mean that irrespective of facts and circumstances of each case, a stale claim must be entertained by the appropriate Government while making a reference or in a case where such reference is made the workman would be entitled to the relief at the hands of the Labour Court."
>
> 14. "The decision of Ajaib Singh (*supra*) must be held to have been rendered in the fact situation obtaining therein and no ratio of universal application can be culled out therefrom. A decision, as is well-known, is an authority of what it decides and not what can logically be deduced therefrom Bharat Forge Co. Ltd. *Vs.* Uttam Manohar Nakate, JT 2005 (1) SC 303], and Kalyan Chandra Sarkar *vs.* Rajesh Ranjan @ Pappu Yadav & Anr. para 42."
>
> 15" In Balbir Singh *vs.* Punjab Roadways and Another [(2001) 1 SCC 133], as regard Ajaib Singh (*supra*), this Court observed :
>
> 5." The learned counsel for the petitioner strenuously urged that the Tribunal committed error in denying relief to the workman merely on the ground of delay. The learned counsel submitted that in industrial dispute delay should not be taken as a ground for denying relief to the workman if the order/orders under challenge are found to be unsustainable in law. He placed reliance on the decision of this Court in the case of Ajaib Singh *v.* Sirhind Coop. Marketing-*cum*-Processing Service Society Ltd. [(1999) 6 SCC 82 : 1999 SCC (L&S) 1054 : JT (1999) 3 SC 38].
>
> 6. "We have carefully considered the contentions raised by the learned counsel for the petitioner. We have also perused the aforementioned decision. We do not find that any general principle as contended by the learned counsel for the petitioner has been laid down in that decision. The decision was rendered on the facts and circumstances of the case, particularly the fact that the plea of delay was not taken by the management in the proceeding before the Tribunal. In the case on hand the plea of delay was raised and was accepted by the Tribunal. Therefore, the decision cited is of little help in the present case. Whether relief to the workman should be denied on the ground of delay or it should be

appropriately moulded is at the discretion of the Tribunal depending on the facts and circumstances of the case. No doubt the discretion is to be exercised judicially."

16. "Yet again in Assistant Executive Engineer, Karnataka *vs.* Shivalinga [(2002) 10 SCC 167], a Bench of this Court observed :

"6. Learned counsel for the appellant strongly relied on the reasoning of the Labour Court and contended that the view of the High Court would not advance the cause of justice. Learned counsel for the respondent relied upon two decisions of this Court in Ajaib Singh *vs.* Sirhind Coop. Marketing-*cum*-Processing Service Society Ltd. (1999) 6 SCC 82 and Sapan Kumar Pandit *vs.* U.P. SEB (2001) 6 SCC 222 to contend that there is no period of limitation prescribed under the Industrial Disputes Act to raise the dispute and it is open to a party to approach the Court even belatedly and the Labour Court or the Industrial Tribunal can properly mould the relief by refusing or awarding part-payment of back wages. It is no doubt true that in appropriate cases, as held by this Court in the aforesaid two decisions, such steps could be taken by the Labour Court or the Industrial Tribunal, as the case may be, where there is no such dispute to relationship between the parties as employer and employee. In cases where there is a serious dispute, or doubt in such relationship and records of the employer become relevant, the long delay would come in the way of maintenance of the same. In such circumstances to make them available to a Labour Court or the Industrial Tribunal to adjudicate the dispute appropriately will be impossible. A situation of that nature would render the claim to have become stale. That is exactly the situation arising in this case. In that view of the matter, we think the two decisions relied upon by the learned counsel have no application to the case on hand."

17. "In Nedungadi Bank Ltd. (*supra*), a Bench of this Court, where S. Saghir Ahmad was a member [His Lordship was also a member in Ajaib Singh (*supra*), opined :

"6. Law does not prescribe any time-limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service. At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale could not be the subject-matter of reference under Section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final, it appears to us to be rather incongruous that the reference be made under Section 10 of the Act in the circumstances like the present one. In fact it could be said that there was no dispute pending at the time when the reference in question was made." (*Emphasis supplied*).

18. In (2006) 5 SCC 433 in case titled as UP State Road Transport Corporation Vs. **Babu Ram**, the termination was dated 19-9-1983 and the reference was made on 29-8-1998. The Labour Court has held the termination as un-valid without considering the question of delay. The Hon'ble High Court dismissed the writ petition. The Hon'ble Supreme Court has held that no material was placed on record to show that the dispute was raised within reasonable time and the employee was not responsible for delay. The relevant portion of the aforesaid judgment is reproduced as under:

"10. It is to be noted that the High Court has very cryptically disposed of the writ petition. The workman has not placed any material to show that it had raised dispute within a

reasonable time, and/or that he was not responsible for delayed decision if any in the conciliation proceedings. It was for him to show that the dispute was raised within a reasonable time and that he was not responsible for any delay. The High Court, on a hypothetical basis has assumed that the dispute might have been raised promptly but delayed by the State Government and he cannot be penalized for delay in finalizing the conciliation proceedings and the reference. But neither the Labour Court nor the High Court has even noted the factual position. The conclusion was based on surmises and conjectures."

19. In Assistant Engineer, CAD Kota Vs. **Dhan Kunwar reported in (2006) 5 SCC 481**, the delay was of about eight years in raising the dispute. The Labour Court granted reinstatement with 30 % back-wages. The writ petition and writ appeal filed by the employer were dismissed. However, the Hon'ble Apex Court set aside the judgments of Hon'ble High Court and the Labour Court and held that no relief should have been granted. The relevant portion of the aforesaid judgment is reproduced herein under:

"9. In the background of what has been stated above, the Labour Court should not have granted relief. Unfortunately, learned Single Judge and the Division Bench did not consider the issues in their proper perspective and arrived at abrupt conclusions without even indicating justifiable reasons……..

20. In UP State Road Transport Corporation Vs. **Ram Singh and another (2008) 17 SCC 627**, the termination was dated 15-3-1973 and the reference was dated 15-6-1986 and there was a delay of about 13 years in making the reference. The reference was dismissed on the ground of delay. The relevant portion of the aforesaid judgment reads as under:

"7. We are of the view that in the facts and circumstances of the case, the High Court erred in not setting aside the award of the Labour Court. Apart from the unacceptable manner in which the appellant was denied the opportunity of participating in the proceedings, including being debarred from cross-examining the respondent, the Labour Court could not have entertained the industrial dispute given the enormous delay. This Court has in several decisions has held that while delay cannot by itself be sufficient reason to reject an industrial dispute, never the less the delay cannot be un-reasonable. The decision in Prakash Chander Sahu has reaffirmed this principle. The reason for diligence and promptness lies in the fact that the records pertaining to an employee might have been destroyed and it would be difficult to obtain witnesses who would be competent to give evidence so many years later if the Labour Court wishes to hold a further enquiry into the matter. In the present case, the delay of 13 years is unreasonable. The mere fact that the respondent was making repeated representations would not justify his raising the issue before the Labour Court after 13 years. In any event, the last representation was made in 1983 and the industrial dispute was admittedly raised in 1986. The lack of diligence on the part of the respondent is apparent."

21. In (2009) 13 SCC 746, State of Karnataka Vs. **Ravi Kumar** the Hon'ble Supreme Court dismissed the reference on the ground of delay and it was held that the person supervising could not be expected to prove after 14 years that the employee did not work or that he did not work for 240 days or he voluntarily left the job. The relevant portion of the aforesaid judgment reads as under:

"9. It is not possible to expect the Asstt. Executive Engineer to prove after 14 years that the daily wager did not work or that he did not work for 240 days in a year or that the daily wager voluntarily left the work……

22. In a recent judgment of our **Hon'bl e High Court delivered in CWP no. 1912 of 2016 titled as Bego Devi Versus State of HP and others decided on 26-10-2016**, it has been held as under:

> "9. **It is beaten law of land that delay takes away the settings of law. A person who does not seek relief within time, his petition has to be dismissed only on the grounds of delay and laches, otherwise, it would amount to gross misuse of jurisdiction and disturb the settled position".**

23. In view of the aforesaid law laid down by the Hon'ble Apex Court, it is clear that though the Court cannot import the period of limitation and the reference cannot be dismissed merely on the ground of delay, it does not mean that irrespective of the facts and circumstances of the case, a stale claim must be entertained and the relief should be granted. In the case of delay, no formula of universal application can be laid down and it would depend on the facts and circumstances of each case. The delay would certainly be fatal if it has resulted in material evidence relevant to the adjudication being lost and rendered unavailable. The onus of showing that the dispute was raised within a reasonable time is upon the workman and it is for the workman to explain the delay by furnishing the acceptable explanation to the satisfaction of the Court that he was not responsible for the delay caused. The fact that the workman was making repeated representations/requests is not sufficient to explain the delay.

24. Keeping in view the aforesaid principles laid down by the Hon'ble Apex Court, the facts of this case are required to be seen. The services of the petitioner were stated to be terminated during March 1995 and he raised the present dispute after a period of more than 14 years. In his evidence by way of affidavit Ex. PW-1/A, the petitioner has averred that after his termination he was assured that on the availability of work and funds, he would be re-engaged but despite assurance given by the respondent, he was not reinstated. However, except for his bald statement there is no other evidence on record to suggest as to when the respondent had given him assurance. No documentary evidence has been produced by the petitioner to prove that he had been visiting the respondent for his re-engagement during the period of 14 years. In the opinion of this Court, the explanation furnished by the petitioner for not raising the demand notice within a reasonable period cannot be accepted. The burden of proof was upon the petitioner to show that the dispute was raised within a reasonable time and to offer an explanation to the satisfaction of this Court for the delay of 14 years caused in seeking reference but the petitioner has failed to discharge his burden. The reference is therefore stale and is liable to be rejected on the ground of delay in raising the dispute.

25. On merits, it is clear that the petitioner was engaged as daily waged Beldar by the respondent on 25-1-1995 and he worked as such till 24-3-1995 for a period of 51 days. The petitioner has failed to prove on record that he had worked for 240 days in preceding twelve months prior to his termination. There is no material on record which could show that the petitioner has completed 240 working days in twelve calendar months preceding his termination. In ***2009 (120)FLR 1007 incase titled as Relip Nagarpalika*** *Vs.* ***Babuji Gabhaji Thakore and others*** , the Hon'ble Supreme Court has held as under:

> ***"The burden of proof lies on the workman to show that he had worked continuously for 240 days for the preceding one year and it is for the workman to adduce evidence apart from examining himself to prove the factum of being in employment of the employer."***

In ***AIR 2006 S.C.110 case titled as Surindernagar District Panchyat*** V/s ***Dayabhai Amar Singh, the*** Hon'ble Supreme Court has held that:—

"Incase workman claims to have worked for more than 10 years as daily wager. Apart from oral evidence workman has not produced any evidence to prove fact that he has worked for 240 days. No proof of receipt of salary or wages or any record or order in that regard was produced: no co- worker was examined; muster roll produced by employer has not been contradicted. Workman has failed to discharge his burden that he was in employment for 240 days during preceding 12 months of date of termination of his service. Workman not entitled for protection of Section 25-F before his service was terminated."

A bare perusal of the extract of the judgment re-produced, hereinabove, shows that the burden to prove completion of 240 days service lies on the workman and this burden is discharged on workman stepping in the witness box and adducing cogent evidence. However, in the instant case, the petitioner has failed to prove on record that he had put in 240 days in twelve calendar months preceding his termination. There is no *iota* of evidence which could go to show that the petitioner had completed 240 working days in twelve calendar months preceding his termination. Hence, the case of the petitioner does not fall under Section 25-F of the Industrial Disputes Act, 1947 and as such no protection of Section 25-F can be granted to the petitioner.

26. The learned counsel for the petitioner next contended that the respondent has taken the plea of abandonment in its reply but they have totally failed to establish such plea by producing any evidence on record. As pointed out earlier, the Hon'ble Supreme Court has held that the delay would certainly be fatal if it has resulted in material evidence relevant to the adjudication being lost and rendered unavailable. It has also been held by the **Hon'ble Supreme Court in 2009 (13) SCC 746** that the person supervising cannot be expected to prove after long delay that the employee/workman did not work for 240 days in a year or that he voluntarily left the job. It is difficult for the employer to obtain witness/es who would be competent to give evidence so many years later. It has further been held that lapse of time results in losing the remedy and the right as well and the delay in seeking the reference causes prejudice to both the employer and employee. In the present case also it would not be expected from the respondent to lead evidence and to bring witnesses or to place documents on record to prove after 14 years that the petitioner had abandoned the job at his own. The petitioner had raised the industrial dispute after lapse of about 14 years and remained silent during this period without any plausible explanation, and as such, no relief can be granted to him after a lapse of about 14 years as the delay in the present case is certainly fatal.

27. The learned counsel for the petitioner next contended that at the time of the termination of the petitioner, the respondent had retained his juniors and had engaged fresh hands who are still working as such the respondent had violated the principles of "last come first go". In his affidavit Ex. PW-1/A, the petitioner has mentioned the names of some junior persons. However, as observed earlier, the petitioner had raised the demand notice after a period of 14 years as such there is no question of consideration of equal treatment with the junior persons who have allegedly been shown in affidavit Ex. PW-1/A. To take this view, I am fortified with the judgment of our own **Hon'ble High Court in CWP No. 4515/2012 decided on 13-6-2012, titled as Suraj Mani** Vs. **HPSEB** wherein it has been held that the petitioners cannot claim equal treatment after about two decades with the juniors who have allegedly been retained. The petitioner who slept for a long period of 14 years is not entitled to claim any relief on the ground of equal treatment. Since, the reference has been proved to be stale and belated as such the protection of Sections 25-G and 25-H of the Act cannot be granted to the petitioner. If the alleged termination of petitioner was either illegal or unjustified, he would not have kept silent for a period of 14 years.

28. Thus, keeping in view the above cited rulings and the material fact that the petitioner had raised the industrial dispute after lapse of about 14 years and remained silent during this period without any plausible explanation as such no relief can be granted to him. Hence, it cannot be said that the termination of the services of the petitioner is illegal and unjustified. Consequently, both these issues are decided accordingly.

Issue No.2 :

29. Since, the petitioner has failed to prove issue No.1, above, this issue becomes redundant.

Issue No.4 :

30. In support of this issue, no evidence has been led by the respondent. However, the petitioner has filed this claim petition pursuant to the reference made by the appropriate government to this Court for adjudication and I find nothing wrong with this petition which is perfectly maintainable. Accordingly, this issue is decided in favour of the petitioner and against the respondent.

Relief.

As a sequel to my findings on the aforesaid issues, the claim of the petitioner fails and is hereby dismissed. Consequently, the reference stands answered against the petitioner and in favour of the respondent. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open Court today on this 27th Day of November, 2017.

SUSHIL KUKREJA,
Presiding Judge,
H.P. Industrial Tribunal-cum- Labour Court, Shimla.

IN THE COURT OF SH. SUSHIL KUKREJA, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-CUM-**LABOUR COURT, SHIMLA**

Ref. No. 55 of 2014

Instituted on 6-8-2014

Decided on 28-11-2017

Sudama Ram Sharma s/o Shri Jai Singh, Ward No.1, Sarain Wali Gali, Nalagarh, Distt. Solan, H.P. . .*Petitioner.*

VERSUS

M/s Sidharatha Super Spinning Mills Ltd. Nihal Khera, Tehsil Nalagarh, Distt. Solan, H.P. Ltd. through its Managing Director. . .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri Chetan Sharma, Advocate

For respondent : Shri Rajiv Sharma, Advocate

AWARD

The following reference has been received from appropriate government for adjudication:

"Whether the dismissal of the services of Shri Sudama Ram Sharma s/o Shri Jai Singh, workman by the management of M/s Sidharatha Super Spinning Mills Ltd. Nihal Khera, Tehsil Nalagarh, Distt. Solan, H.P. vide **order dated 27-9-2008 after serving charge sheet and after holding enquiry is legal and justified? If not, to what back wages, service benefits and relief the above named workman is entitled to?"**

2. Briefly, the case of the petitioner is that he was appointed *w.e.f.* 17-11-1993 and worked as such till 4-4-2008 and thereafter *w.e.f.* 5-4-2008 he was placed under suspension and ultimately *w.e.f.* 27-9-2008, his services had been terminated by the respondent. It is further stated that the designation of the petitioner was supervisor but he used to work manually with the respondent, hence, he is a workman as defined under the Industrial Disputes Act, 1947 (hereinafter referred to as Act). That the work and conduct of the petitioner during his service period remained up to mark to the concerned official and he worked sincerely and his services were terminated on the allegation that he had misbehaved with Mr. Raman Taing, Manager Finishing Department which falls under gross misconduct as per certified standing orders of the respondent mill and all of sudden the respondent issued chargesheet-*cum*-suspension letter to the petitioner which was replied by him and without hearing he was suspended from service *w.e.f.* 5-4-2008. That *vide* annexure P-4, the petitioner had filed a complaint against Mr. Raman Taing to the SHO Nalagarh as he was threatening him. It is further stated that after receiving the reply to the chargesheet-*cum*-suspension letter, the respondent decided to hold the domestic enquiry against the petitioner and Shri Sanjeev Sharma, Advocate was appointed as enquiry officer but after receiving the intimation regarding the appointment of enquiry officer, the petitioner raised oral objection and asked to pay the suspension allowances but the respondent had not paid full suspension allowance and other allowances as per law and even his request was not considered by the respondent, hence, he had left with no other alternative but to appear before the enquiry officer and denied the charges leveled against him. The enquiry officer started enquiry in arbitrary manner and he used to write the version which favoured the respondent mill and after concluding the enquiry, the enquiry officer submitted his report to the respondent and on the basis of enquiry report the respondent had issued show cause notice to the petitioner which was replied by him and thereafter *w.e.f.* 27-9-2008, his services were terminated by the respondent. The respondent had not paid full suspension allowance for the period when the petitioner remained under suspension. It is also stated that the enquiry conducted against the petitioner was not fair and proper and was just eyewash as the enquiry officer had submitted his report as per the wishes of the respondent and even proper opportunity to defend himself was not afforded to the petitioner. The charge leveled against the petitioner is false as he had not misbehaved with Mr. Taing at any point of time. Against this back-drop a prayer has been made that the dismissal of the petitioner *w.e.f.* 27-9-2008 be quashed and set aside and the respondent be directed to reinstate the petitioner in service with full back-wages, seniority, continuity and all other service benefits.

3. By filing reply, the respondent contested the claim of the petitioner wherein preliminary objections have been taken *qua* maintainability and that the petitioner has not come

to this Court with clean hands. On merits, it has been asserted that the services of the petitioner had been terminated in lawful manner after holding enquiry into the misconduct and even the petitioner was working as supervisor and the duties assigned to him were purely supervisory in nature, hence, he does not fall in the category of worker and since he (petitioner) failed to obey the orders of his superior officer, he was chargesheeted *vide* chargesheet dated 4-4-2008, on the complaint of his superior officer and he was called upon to file the reply and the reply filed by the petitioner was beyond the satisfaction of the respondent and as such the management decided to hold an independent enquiry and Shri Sanjeev Sharma, Advocate was appointed as an enquiry officer to enquire into the matter as per the principles of natural justice, who gave notice of enquiry to the petitioner and thereafter the petitioner participated in the enquiry proceedings. The petitioner was given full opportunity to cross-examine the witnesses of the respondent and to lead evidence in defence and the papers supplied by the petitioner were duly exhibited by the enquiry officer. It is further asserted that the report dated 30-7-2008 of the enquiry officer is based on the documents supplied by both the parties and oral evidence. That after the receipt of the enquiry report, the respondent issued show cause notice to the petitioner and thereafter *vide* termination order dated 27-9-2008, the services of the petitioner were terminated by releasing his full & final dues. The respondent prayed for the dismissal of the claim petition.

4. By filing rejoinder, the petitioner reaffirmed his allegations by denying those of the respondent.

5. On the pleadings of the parties, the following issues were framed by this Court on 1.4.2011:

1. Whether the services of workman Sudama Ram have been dismissed in an illegal manner by the respondent management as alleged? . .*OPP.*

2. If issue No.1 is proved in affirmative whether petitioner workman is entitled for back-wages and service benefits as prayed? . .*OPP.*

3. Whether the petition is not maintainable? . .*OPR.*

4. Relief

6. Thereafter, the case was fixed for the evidence of the petitioner. The petitioner himself appeared into the witness box as PW-2 and also examined one Shri Surjit Singh, Clerk of respondent company as PW-1.

7. PW-1 Shri Surjit Singh, Clerk of respondent company stated that the petitioner was suspended *w.e.f.* 5-4-2008 and he was getting ₹ 6257/- per month and after suspension, he was getting suspension allowance of ₹ 3546/- in May, 2008 and ₹ 4067/- in September, 2008 and 50% of the wages are paid as suspension allowance in suspension period. In cross-examination he stated that the petitioner was working as supervisor.

8. The petitioner appeared in to the witness box as PW-2 and tendered in evidence his affidavit wherein he reiterated almost all the averments as stated in the claim petition. He also tendered in evidence documents referred to in his affidavit Ex. PW-2/A to Ex. PW-2/G. In cross-examination, he admitted that he had filed reply to the chargesheet Ex. PW-2/C and that he had mentioned his designation as supervisor in that reply. He denied that he was working as supervisor. He admitted that he was issued letter as supervisor. He denied that on 4-4-2008, he forcibly entered in the office of Raman Taing and that he asked him (Raman Taing) as to why

he was not promoted and threatened him. The petitioner stated that he was issued chargesheet on 5.4.2008 and he was put under suspension and he used to get suspension allowance. Shri Sanjeev Sharma was appointed as enquiry officer and the proceedings used to be got signed from him and others. He cross-examined the company witnesses and then the copies of their statements were supplied to him and he also gave defence witness. His statement was recorded in defence. He denied that his statement was recorded by the enquiry officer that he did not want to examine any witness in defence. He admitted that he received 2nd show cause notice along-with the enquiry report and he gave reply to that notice. He denied that he was paid full and final payment.

9. After examining two PWs, the learned counsel for the petitioner closed the evidence on behalf of petitioner on 31-12-2013 on which date an application under order 14 rule 5 CPC for framing preliminary issue was filed by the respondent which was allowed *vide* order dated 19-7-2014 and my learned predecessor framed the following preliminary issues:

1. Whether the domestic enquiry conducted against the petitioner is unfair and violative of the principles of natural justice as alleged? . .*OPP.*

2. Relief.

10. It may be pertinent to mention here that *vide* separate statement recorded on 23-5-2016, the petitioner stated that he did not want to lead any fresh evidence on preliminary issue and his statement recorded on 28-3-2012 as PW-2 and the documents tendered in evidence *i.e* Ex. PW-2/A to Ex. PW-2/G be read in evidence to the preliminary issue and closed the evidence on preliminary issue.

11. Thereafter, the respondent examined two RWs. RW-1 Shri Sanjeev Sharma, enquiry officer tendered in evidence his affidavit Ex. RW-1/A wherein he stated that the respondent appointed him as enquiry officer in the chargesheet dated 4-4-2008 and after his appointment he issued notice dated 14-4-2009 to the petitioner to join the enquiry proceedings which were to be conducted at the main gate of the factory and on 24-4-2008, he had started the enquiry proceedings in the presence of both the parties and he apprised them the procedure of the enquiry. He further deposed that he conducted the enquiry as per the principles of natural justice by giving full opportunity to petitioner to produce any person to defend his case in the enquiry and also gave opportunity to cross- examine the witnesses of the management and the copies of the statement of the witnesses including proceedings were supplied to the petitioner on the same day when the same were written. He further stated that he provided full opportunity to the petitioner to produce his witnesses in defence and to produce the documents and after the closure of the evidence by the petitioner he filed his report to the management and a copy of the same was sent by the management to the petitioner. He also tendered in evidence letter of appointment as enquiry officer Ex. RW-1/B, notice Ex. RW-1/C, enquiry proceedings Ex. RW-1/D, statements of witnesses recorded during enquiry Ex. RW-1/E, enquiry report Ex. RW-1/F, list of witnesses produced in the enquiry by the respondent management Ex. RW-1/G and the documents as exhibited in the enquiry *i.e* complaint Ex. RW-1/H, chargesheet Ex. RW-1/J and the complaint to SHO Nalagarh Ex. RW-1/K. In cross-examination, he stated that it was not necessary that in every case a worker is represented by co-worker but volunteered that he had asked the petitioner as to whether he wanted to be represented by a worker. He denied that during enquiry proceedings, he had refused to accept complaint Ex. PW-2/D. He admitted that the witnesses of the management were the employees of the company. He denied that the proceedings of the enquiry were not supplied to the petitioner on the same day. He admitted that the statement of petitioner for closing the evidence was not taken at the end of his statement but volunteered that a separate statement was taken for closing the evidence. He denied that the enquiry was not conducted in accordance with the principles of

natural justice. He further denied that he is the permanent enquiry officer of the respondent company and he used to give enquiry reports at the instance of the management. He also denied that during the enquiry proceedings he had ignored the version of the petitioner and that he used to record the enquiry proceedings in an unfair manner.

12. RW-2 Shri Harsh Dev Gulati, Finance Controller tendered in evidence his affidavit Ex. RW-2/A wherein he reiterated almost all the averments as made in the reply. He also tendered in evidence the copy of second show cause notice Ex. RW-2/B and copy of termination letter Ex. RW-2/C. In cross- examination, he admitted that the chargesheet was not issued to the petitioner on the basis of Certified Standing Orders of the company because the petitioner does not come under the definition of workman. He denied that the petitioner comes under the definition of workman and that he was working manually. He denied that the enquiry was not conducted in a fair and proper manner and that the enquiry was conducted in violation of the principles of natural justice. He further denied that the petitioner was victimized as he had raised the legitimate demands and that the enquiry was conducted to oust the petitioner from service.

13. *Vide* order dated 11-10-2017, this Court decided the preliminary issue in favour of the respondent and against the petitioner and it was held as under:

> "**In view of my foregoing discussion on preliminary issue, since, the enquiry has been held to be fair and proper, therefore, let the parties be heard on the point as to whether the punishment of dismissal imposed by the respondent upon the petitioner is dis-proportionate to the gravity of misconduct committed by him".**

14. I have heard the learned counsel for the parties on the quantum of punishment and have also gone through the record of the case carefully.

15. It is by now well settled that after introduction of Section 11-A of the Industrial Disputes Act, Labour Court has the power to set-aside the order of discharge or dismissal or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal, as the circumstances of the case may require. However, it cannot be said that powers of the Labour Court under Section 11-A of the Act, are absolute or un-qualified. The Labour Court can exercise the said powers only when it is satisfied that order of dismissal or discharge was not justified.

16. In **Mahindra and Mahindra Ltd** versus **N B Naravade etc., AIR, 2005, SC 1993**, it has been held by the Hon'ble Apex Court as under:

> "**20. It is no doubt true that after introduction of Section 11-A in the Industrial Disputes Act, certain amount of discretion is vested with the labour court/Industrial Tribunal in interfering with the quantum of punishment awarded by the Management where the concerned workman is found guilty of misconduct. The said area of discretion has been very well defined by the various judgments of this Court referred to herein above and it is certainly not unlimited as has been observed by the Division Bench of the High Court. The discretion which can be exercised under Section 11-A is available only on the existence of certain factors like punishment being disproportionate to the gravity of misconduct so as to disturb the conscience of the court, or the existence of any mitigating circumstances which requires the reduction of the sentence, or the past conduct of the workman which may persuade the Labour Court to reduce the punishment. In the absence of any such factor existing, the Labour Court cannot by way of sympathy alone exercise the power under Section 11-A of the Act and reduce the punishment."**

17. In **L & T Komatsu Ltd** versus **N. Udaya kumar (2008) 1 SCC 224,** the Hon'ble Supreme Court has relied upon its earlier decision in **LIC of India** versus **R Dhandapani, AIR 2006 SC, 615,** wherein, it was held as under:

> "**It is not necessary to go into in detail regarding the power exercisable under Section 11-A of the Act. The power under said Section 11-A has to be exercised judiciously and the Industrial Tribunal or the Labour Court, as the case may be, is expected to interfere with the decision of a management under Section 11-A of the Act only when it is satisfied that punishment imposed by the management is wholly and shockingly disproportionate to the degree of guilt of the workman concerned. To support its conclusion the Industrial Tribunal or the Labour Court, as the case may be, has to give reasons in support of its decision. The power has to be exercised judiciously and mere use of the words 'disproportionate' or `grossly disproportionate' by itself will not be sufficient.**
>
> **In recent times, there is an increasing evidence of this, perhaps well- meant but wholly unsustainable, tendency towards a denudation of the legitimacy of judicial reasoning and process. The reliefs granted by the Courts must be seen to be logical and tenable within the framework of the law and should not incur and justify the criticism that the jurisdiction of the Courts tends to degenerate into misplaced sympathy, generosity and private benevolence. It is essential to maintain the integrity of legal reasoning and the legitimacy of the conclusions. They must emanate logically from the legal findings and the judicial results must be seen to be principled and supportable on those findings. Expansive judicial mood of mistaken and misplaced compassion at the expense of the legitimacy of the process will eventually lead to mutually irreconcilable situations and denude the judicial process of its dignity, authority, predictability and respectability. (*See*: Kerala Solvent Extractions Ltd.** v. **A. Unnikrishnan and Another, 1994 (1) SCALE 631.**
>
> **Though under Section 11-A, the Tribunal has the power to reduce the quantum of punishment it has to be done within the parameters of law. Possession of power is itself not sufficient; it has to be exercised in accordance with law."**

18. In **M. P Electricity Board** versus **Jagdish Chandra Sharma, in (2005) 3 SCC 401,** wherein, the Hon'ble Supreme Court has held as under:

> "**20. It is no doubt true that after introduction of Section 11-A in the Industrial Disputes Act, certain amount of discretion is vested with the labour court/Industrial Tribunal in interfering with the quantum of punishment awarded by the Management where the concerned workman is found guilty of misconduct. The said area of discretion has been very well defined by the various judgments of this Court referred to herein above and it is certainly not unlimited as has been observed by the Division Bench of the High Court. The discretion which can be exercised under Section 11-A is available only on the existence of certain factors like punishment being disproportionate to the gravity of misconduct so as to disturb the conscience of the court, or the existence of any mitigating circumstances which requires the reduction of the sentence, or the past conduct of the workman which may persuade the Labour Court to reduce the punishment. In the absence of any such factor existing, the Labour Court cannot by way of sympathy alone exercise the power under Section 11-A of the Act and reduce the punishment.**

19. It is clear from the aforesaid decisions of the Hon'ble Supreme Court that although this Court has ample powers to interfere with the punishment imposed upon the workman, the

power is not arbitrary and it is to be exercised judicially and in accordance with law. The punishment imposed upon the workman can be interfered only if the Court is satisfied that the punishment is wholly and shockingly disproportionate to the nature of misconduct proved against the workman or if there are any mitigating circumstances including the past conduct of the workman which may persuade the Court to reduce the punishment.

20. Admittedly, a chargesheet dated 4-4-2008 Ex. PW-2/B was issued to the petitioner *vide* which the charges leveled against the petitioner were that on 4-4-2008 the petitioner had entered into the office of Mr. Raman Taing, Manager (Finishing) and started shouting on him by using abusing and un-parliamentary language and also threatened him of dire consequences if he fails in getting him promoted. Thereafter, an enquiry was conducted against the petitioner and the enquiry officer had given his findings against him and the charges leveled against the petitioner stood proved. As already observed this Court has given its findings on preliminary issue on 11-10-2017 that the domestic enquiry conducted against the petitioner by the respondent company was fair and proper and the charges leveled against the petitioner stood duly proved. It is also clear from the cross-examination of the petitioner that after the termination of his services, he was paid about ₹ 56,000/- (₹ Fifty Six Thousand only) by the respondent company. It is also clear from the record that the petitioner has now attained the age of superannuation.

21. After going through the record of the case and also after taking into consideration all aspects of the matter, I am of the firm opinion that in the facts and circumstances of the present case, the action of termination of the petitioner cannot be said to be unjustifiable. In **(2005) 3 SCC 401, M.P Electricity Board** Vs. **Jagdish Chandera Sharma** it has been held by the Hon'ble Apex Court that discipline at the work place in an organization like the employer herein, is the *sine qua* non for the efficient working of the organization. When an employee breaches such discipline and the employer terminates his services, it is not open to a Labour Court or an Industrial Tribunal to take the view that the punishment awarded is shockingly disproportionate to the charge proved. The relevant portion of the aforesaid judgment reads as under:

> "8. **It may also be noticed that in Orissa Cement Ltd.** vs. **V. Adikanda Sahu and in New Shorrock Mills** vs. **Maheshbhai T. Rao, this Court held that use of abusive language against a superior, justified punishment of dismissal. This Court stated "punishment of dismissal for using abusive language cannot be held to be disproportionate". If that be the position regarding verbal assault, we think that the position regarding dismissal for physical assault, must be found all the more justifiable. Recently, in Employers, Management, Muriadih Colliery M/s BCCL Ltd.** v. **Bihar Colliery Kamgar Union, Through Workmen [JT 2005 (2) SC 444] this Court after referring to and quoting the relevant passages from Management of Krishnakali Tea Estate** v. **Akhil Bharatiya Chah Mazdoor Sangh & Anr. [2004 (7) SCALE 608] and The Management of Tournamulla Estate** Vs. **Workmen, (1973) 2 SCC 502 held** :
>
> > **"The courts below by condoning an act of physical violence have undermined the discipline in the organization, hence, in the above factual backdrop, it can never be said that the Industrial Tribunal could have exercised its authority under Section 11(A) of the Act to interfere with the punishment of dismissal."**
>
> 9**. In the case on hand, the employee has been found guilty of hitting and injuring his superior officer at the work place, obviously in the presence of other employees. This clearly amounted to breach of discipline in the organization. Discipline at the work place in an organization like the employer herein, is the** sine

qua **non for the efficient working of the organization. When an employee breaches such discipline and the employer terminates his services, it is not open to a Labour Court or an Industrial Tribunal to take the view that the punishment awarded is shockingly disproportionate to the charge proved. We have already referred to the views of this Court. To quote Jack Chan, "discipline is a form of civilly responsible behaviour which helps maintain social order and contributes to the preservation, if not advancement, of collective interests of society at large."**

Similarly, **in (2013) 10 SCC 185, Davalsab Husainsab Mulla** Vs. **North west Karnatka Road Transport Corporation**, the Hon'ble Apex Court has held that the extreme misbehaviour towards the higher officials and fellow employees cannot be dealt with lightly and any sympathy shown to a person of such mindset while working in an establishment will definitely cause more harm than good for the establishment and all others working therein. The relevant portion of the aforesaid judgment reads as under:

"**14. We feel it appropriate to add one more instance such as the present one where an employee by violating the rules of the Corporation travelled without a valid ticket had the audacity to question the authority of the checking squad and posed a serious threat of taking away the life of the concerned Checking Inspector. Not stopping with that he went to the office of the higher official and created a ruckus in the office by throwing a challenge that he would indulge in a Satyagraha apart from abusing the concerned Checking Inspector in the presence of all other employees once again threatening to take away his life by burning him. Such an extreme misbehaviour towards the higher officials and fellow employees cannot be dealt with lightly and any sympathy shown to a person of such mindset while working in an establishment will definitely cause more harm than good for the establishment and all others working therein.**

15. Therefore, in the case on hand, the conduct of the employee towards the establishment as well as its fellow employees and higher authorities was highly condemnable and, therefore, there was absolutely no scope for exercising the discretionary power vested in the Labour Court under Section 11A of the Act. The Labour Court, therefore, rightly declined to exercise the said jurisdiction vested in it in his favour. Unfortunately, the learned Judge by merely stating that the Labour Court had only considered the interest of the Corporation and not the interest of the employee set aside the said award which was correctly rectified by the Division Bench. The Division Bench was, therefore, well in order in having set aside the order of the Learned Single Judge and restoring the order of dismissal passed against the appellant. We too, therefore, do not find any scope to interfere with the order impugned in this appeal.

In the present case also it has been proved that the petitioner had entered into the office of his superior officer *i.e* Mr. Raman Taing, Manager (Finishing) and started shouting on him and used abusive and un-parliamentary language against him and also threatened him with dire consequences if he fails in getting him promoted. Therefore, in my opinion the petitioner had committed serious misconduct relating to discipline and his act was sub-served to the discipline in this behalf. The respondent-management was completely justified in terminating the petitioner from service. The punishment was proportionate to the serious misconduct alleged against him. Therefore, in view of the law laid down by the Hon'ble Apex Court and also in view of the gravity of the misconduct and the degree of culpability on the part of the petitioner, this Court does not find it proper to interfere in the punishment of termination imposed by the respondent/management upon the petitioner. Hence, it can safely be held that the termination

of the services of the petitioner *w.e.f.* 27-9-2008 after serving chargesheet and after holding enquiry is proper and justified. Accordingly, issue No.1 is decided in favour of the respondent and against the petitioner.

Issue No.2 :

21. Since, the petitioner has failed to prove issue no.1, above, this issue becomes redundant.

Issue No.3:

22. In support of this issue, no evidence has been led by the respondent. However, the petitioner has filed this claim petition pursuant to the reference made by the appropriate government to this Court for adjudication and I find nothing wrong with this petition which is perfectly maintainable. Accordingly, this issue is decided in favour of the petitioner and against the respondent.

Relief:

As a sequel to my aforesaid discussion, the claim of the petitioner fails and is hereby dismissed. Consequently, the reference stands answered against the petitioner and in favour of the respondent. Let a copy of this award be sent to the appropriate Government for publication in official gazette. File after completion be consigned to the records.

Announced in the open Court today on this 28th day of November, 2017.

SUSHIL KUKREJA,
Presiding Judge,
H.P. Industrial Tribunal-cum-*Labour Court, Shimla.*

IN THE COURT OF SH. SUSHIL KUKREJA, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA

Ref. No. 84 of 2015

Instituted on 29-12-2015

Decided on 30-11-2017

Rajinder Kumar s/o Shri Roshan Lal, r/o Village Katal (Rahad) P.O. Gaura, Tehsil, Kandaghat, Distt. Solan, H.P. through Shri J.C. Bhardwaj President: H.P.-AITUC, HQ: Saproon, Solan, H.P. . .*Petitioner.*

Vs

1. Dr. Y.S. Parmar University of Horticulture & Forestry Nauni, Distt. Solan, H.P. through the Registrar.

2. The Regional Director/Coordinator Dr. Y.S. Parmar University of Horticulture & Forestry Nauni, Distt. Solan, H.P. . .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri J.C Bhardwaj, AR

For respondents : Shri Balwant Singh, Advocate

AWARD

The reference for adjudication, sent by the appropriate government, is as under:

"Whether termination of the services of Shri Rajinder Kumar s/o Shri Roshan Lal, r/o Village-Katal (Rahad), P.O. Gaura, Tehsil Kandaghat, Distt. Solan, H.P. by the (i) The Registrar, Dr. Y.S. Parmar University of Horticulture & Forestry Nauni, Distt. Solan, H.P. and (ii) The Regional Director/Coordinator, Dr. Y.S. Parmar University of Horticulture & Forestry Nauni, Distt. Solan, H.P. *w.e.f.* 15-10-2014 without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, to what relief or reinstatement, back wages, compensation, seniority and other service benefits the above aggrieved workman is entitled to from the above employers?"

2. Briefly, the case of the petitioner is that during the month of August, 1999, he was engaged in the SPS department of respondent university and was disengaged on 7-12-1999 and thereafter he was again engaged in the research station of the university at Kandaghat during the month of September, 2000 on daily wages and remained as such till 21-5-2002 (with some artificial and fictional breaks), when he was illegally terminated from service. It is further stated that the services of the petitioner were continuous for the purpose of section 25-B of the Industrial Disputes Act, 1947 (hereinafter referred as to Act) as he remained in the employment of respondent for more than 240 days preceding to his termination within twelve calendar months and the respondents had neither served any notice on him nor paid retrenchment compensation as per the provision of Section 25- N/25-F of the Act. It is further stated that the petitioner was again engaged on 9-7-2002 as data collector and field investigator on arbitrary terms and conditions on contractual basis at Regional Centre "NAEB" of the university where he remained continued till his illegal termination *i.e* on 15.10.2011. The services of the petitioner were terminated time again which is not covered under Section 2- (oo)(bb) of the Act. It is also stated that the respondents engaged more than one hundred workmen in the university under different departments and as such before terminating the services of the petitioner, three month's notice was required to be served upon him but no such notice was served. That no opportunity of being heard was afforded to the petitioner to defend himself in case he had committed any error on his part and his services could not be terminated by adopting hire and fire formula and after the termination of the petitioner, the respondents engaged many fresh hands in the university and also retained the persons junior to him in violation of the provisions of Sections 25-G and 25-H of the Act. Against his back-drop a prayer has been made that the respondents be directed to reinstate the petitioner in the employment of the respondents university from the date of illegal removal/termination with full back-wages, seniority and other incidental benefits.

3. By filing reply, the respondents contested the claim of the petitioner wherein preliminary objections have been taken *qua* maintainability, that the respondents university being the educational institution does not fall under the jurisdiction of the Act etc. On merits, it has been asserted that the petitioner had worked under *adhoc* projects HGI 005-31 and FRE 016-31 in the Seed Technology and Production Centre during the month of August, 1999 for 26 days. It is further asserted that the petitioner had worked for 30 days in September, 1999 and 31 days in October 1999 and thereafter the petitioner had worked under *adhoc* project NATP 014-56 at

Krishi Vigyan Kendra *w.e.f.* 22-9-2000 to 21-12-2000 for 89 days and *w.e.f.* 1-1-2001 to 25-6-2001 he had worked for 146 days and thereafter during the year, 2002 the petitioner was engaged as labourer on contractual basis *w.e.f.* 25-2-2002 to 21-5-2002 and further *w.e.f.* 15-11-2001 to 31-1-2002 under *adhoc* project NATP at Krishi Vigyan Kendra. It is denied that the petitioner was given some artificial and fictional breaks. It is also deniend that the petitioner remained in the employment of respondents for more than 240 days. It is asserted that the engagement of the petitioner was governed and regulated in accordance with the terms and conditions of his engagement letter and also in terms and conditions of the respective *adhoc* projects. It is denied that the provisions of the Act are applicable to the engagement and disengagement of the petitioner. It is asserted that the petitioner was engaged as project/field investigator under respondent No.2 on certain terms and condition and the engagement of the petitioner was purely temporary and could be terminated at any time without assigning any reason and that too up to the tenure/existence of the project and *vide* letters dated 27-8-2014 and 1-10-2014, his services were disengaged by respondent No.2. The respondents prayed for the dismissal of the claim.

4. By filing rejoinder, the petitioner reaffirmed his allegations by denying those of the respondent.

5. On the pleadings of the parties, the following issues were framed on 6-10-2016.

1. Whether the termination of the services of petitioner *w.e.f.* 15-10-2014 by the respondents without complying with the provisions of Industrial Disputes Act, 1947 is illegal and unjustified as alleged? . .*OPP.*

2. If issue No.1 is proved in affirmative, to what relief and other moretary benefits the petitioner is entitled? . .*OPP.*

3. Whether the petition is not maintainable as alleged? . .*OPR.*

4. Relief.

6. I have heard the AR for the petitioner and learned counsel for respondents and have also gone through the record of the case.

7. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under.

Issue No.1 :	No
Issue No.2 :	Becomes redundant
Issue No.3 :	No
Relief	Reference answered in favour of the respondents and against the petitioner per operative part of award.

REASONS FOR FINDINGS

Issues No.1

8. To prove issue No.1, the petitioner stepped into the witness box as PW-1 to depose that he was engaged by the respondents in the SPS department in August, 1999 where he worked

up till October, 1999 and his attendance certificate is Ex. PW-1/A. He further deposed that then he worked in the department of Silviculture up to December 1999, the copy of attendance certificate is Ex. PW-1/B and thereafter he was engaged in September, 2000 by the respondents at HRS Kandaghat and remained there up to 30-4-2002 and Ex. PW- 1/C is the copy of certificate regarding the tenure of work. He also stated that on 9-7-2002, he was again engaged at Regional Centre Nauni where he worked till 16-2-2006 and Ex. PW-1/D is the copy of certificate regarding tenure of his working days and then he was engaged on 17-2-2006 at HRS Kandaghat and worked there up to 31-3-2008 as per certificate Ex. PW-1/E and thereafter he remained at HRS Kandaghat for 89 days *w.e.f.* 1-4-2008 to 30-6-2008. He stated that thereafter his services were engaged in the month of December, 2008 at Regional Centre Nauni and worked there up to 1-10-2014 continuously *vide* certificate Ex. PW-1/F. His services were terminated on 15-10-2014 *vide* termination letter Ex. PW-1/G and the memorandum of understanding mark PX-1 was to remain in force from 1-4-2012 to 31-3-2017 but his services were terminated on 15-10-2014 without giving any notice and paying compensation. He is not gainfully employed anywhere at present. In cross-examination, he admitted that he worked under the different projects. He denied that he had not completed 240 days in each calendar year. He further denied that initially he was engaged on contract basis. He also denied that he had never worked under the university.

9. On the other hand, the respondents have examined three RWs in all. Shri Sher Singh, Technical Assistant, Department of Seed Science and Technology of respondents University appeared into the witness box as RW-1 to depose that the petitioner was engaged by the Projector Coordinator on 6-8-1999 for a period of 89 days under HGI 005-31 and FRE016-31 projects but he had worked only for 87 days *vide* muster roll Ex. RW-1/A. In cross-examination, he admitted that Seeds and Science Technology Department is the permanent department of the university. He denied that the petitioner was sent to another department of the university after 87 days. He admitted that the petitioner was engaged on the basis of daily wages.

10. RW-2 Shri Paras Ram, Junior Assistant o/o KVK/HRS Kandaghat has stated that the petitioner was engaged from 22-9-2000 to 21-12-2000 for a period of 89 days and thereafter he was engaged from 1-1-2001 to 31-3-2001, from 10-4-2001 to 25-6-2001 and he had only worked for 146 days at Horticulture Research and Training Station Kandaghat as casual labourer. He further deposed that the petitioner had also worked under various projects for a period of 89 days and he had not completed 240 days in any calendar year. In cross-examination, he admitted that the Research Centre at Kandaghat is the permanent research centre of Nauni University and the research work goes on permanently. He denied that the petitioner was not engaged for a period of 89 days. He admitted that the petitioner was in continuous service *w.e.f.* August 1999 to 25-6-2001. He denied that the department had not maintained the muster rolls of the aforesaid period.

11. RW-3 Shri Om Prakash, Senior Assistant from the office of Comptroller at Nauni University has deposed that the service of the petitioner were used to be engaged under project for a period of 89 days on fixed salary in different spells and the services of the casual labourers automatically comes to an end after the completion of the project work. He further deposed that the project under which the petitioner was engaged stands closed *vide* office order Ex. RW-3/A and the services of all the employees working under the project came to an end because they had stopped receiving the funds from funding agencies of the project. He also stated that the petitioner had not completed 240 days in any calendar year. In cross-examination, he admitted that the University gets the projects from different agencies continuously. He further admitted that the project in which the petitioner was working was closed on 31-3-2017 whereas the services of the petitioner were terminated on 15-10-2014. He also admitted that after the year 2011 till

October 2014 the wages of the petitioner were given by the university. He admitted that some of the workers working in the project had worked up to 31-3-2017. He further admitted that no compensation was paid to the petitioner prior to his termination. He also admitted that after 31-3-2017, the university had got new projects in which fresh hands have been engaged.

12. I have closely scrutinized the entire evidence on record and from the closer scrutiny thereof, it has become clear that petitioner had worked in the different departments of the University under different projects as contractual labourer in different spells. The petitioner has tendered in evidence the attendance certificates/certificates regarding the tenure of work Ex. PW-1/A to Ex. PW-1/F. The perusal of the attendance certificate Ex. PW-1/A shows that the petitioner had worked as DPL in the Seed Technology and Production Centre *w.e.f.* 6-8-1999 to 31-10-1999 for a period of 87 days. The certificate Ex. PW-1/B shows that the petitioner had worked as a casual labourer in the department of Silviculture and Agroforestry for 28 days in the months of November and December 1999. The perusal of Ex. PW-1/C shows that the petitioner had worked as daily paid labourer *w.e.f.* 22-9-2000 to 30-6-2001 and contractual labourer *w.e.f.* 1-8-2001 to 30-4-2002 with breaks at Krishi Vigyan Kendra, Kandaghat. Similarly, as per Ex. PW-1/D, the petitioner had worked in the Regional Centre, National Afforestation and Eco-development Board (Ministry of Environment and Forests, GOI) from 9-7-2002 to 16-2-2006. The perusal of Ex. PW-1/E shows that the petitioner had worked as Budder-*cum*-Grafter under the mini Mission Project at Kandaghat *w.e.f.* 17-2-2006 to 31-3-2008. The perusal of the record goes to show that initially the petitioner was engaged on 6-8-1999 under HGI 005-31 and FRE016-31 projects which fact is clear from the muster roll Ex. RW-1/A wherein he had worked only for 87 days. Even, the petitioner while appearing into the witness box as PW-1, has admitted in his cross-examination that he had always worked under the different projects. From the aforesaid material on record, it is clear that the petitioner had worked with the respondents in different departments as a casual worker under different projects. Hence, from the perusal of the record, it stands duly proved that the services of the petitioner had been engaged on contract basis under different departments/projects of the University in the different spells. In ***2006 LLR 1233 SC in case titled as Vidya Vardhaka Sangha & Anr.*** V. ***Y.D Deshpande &Ors, it has been held*** that:—

> ***"The appointment made on probation/ad-hoc basis for a specific period of time comes to an end by efflux of time and the person on such post can have no right to continue on the post. When after having accepted the terms and conditions stipulated in the appointment letter and allowed, the period for which they were appointed has been elapsed by efflux of time, they cannot be permitted to challenge the validity of their termination.***

It was also held in ***(2006) 6 SCC 221, case titled as Reserve Bank of India*** *V.* ***Gopinath Sharma & Anr.*** that workman not appointed to any regular post but engaged on the basis of need of work on day to day basis, had no right to the post.

In 2006 (2) SCC 794 in case titled as Haryana State Agricultural Marketing Board *V.* ***Subh ash Ch and & Anr. the Hon'b le Supreme Court*** has held as under:

> ***"11.*** **The question as to whether Chapter V-A of the Act will apply or not would be dependent on the issue as to whether an order of retrenchment comes within the purview of Section 2 (oo) (bb) of the Act or not. If the termination of service in view of the exception contained in clauses (bb) of Section 2(oo) of the Act is not a 'retrenchment', the question of applicability of Chapter V-A thereof would not arise.**
>
> ***12.*** **Central Bank of India** Vs. **S. Stayam whereupon reliance was placed by Mr. Singh, is itself an authority for the proposition that the definition of 'retrenchment' as**

contained in the said provision is wide. Once it is held that having regard to the nature of termination of services it would not come within the purview of the said definition, the question of applicability of Section 25-G of the Act does not arise."

13. In the instant case, admittedly, the petitioner was engaged as casual labourer with the different departments of the university under the different projects in the different spells. The services of the petitioner were terminated *w.e.f.* 15-10-2014 *vide* letter dated 1-10-2014 Ex. PW-1/G as the NAEB project under which the petitioner was engaged did not receive any grant during 2013-2014 and 2014-2015 from the Centre National Afforestation and Eco-development Board (Ministry of Environment and Forests, Government of India). It is also clear from the office order Ex. RW-3/A that the NAEB Project under which the petitioner was engaged stood closed *w.e.f* 31-3-2017. Thus, on the basis of the above cited rulings and also having regard to the entire evidence on record, it can safely be concluded that the petitioner had been engaged on contract basis under different projects in different spells, who was not retrenched within the meaning of section 2 (oo) of the Industrial Disputes Act, 1947 and that his case falls within the exception as prescribed under-section 2(oo)(*bb*) of the Act. Consequently, the petitioner fails to prove this issue, to which my answer is in the negative.

Issue No.2 :

14. Since, the petitioner has failed to prove issue No.1, this issue becomes redundant.

Issue No.3 :

15. In support of this issue, no evidence has been led by the respondent. Moreover, I find nothing wrong with this petition which is perfectly maintainable. Accordingly, issue No. 3 is decided in favour of petitioner and against the respondents.

Relief :

As a sequel to my above discussion and findings on issue No.1 to 3, the claim of the petitioner fails and is hereby dismissed. The reference is ordered to be answered in favour of the respondents and against the petitioner. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion, be consigned to records.

Announced in the open Court today on this 30th Day of November, 2017.

SUSHIL KUKREJA,
Presiding Judge,
Industrial Tribunal-cum-*Labour Court, Shimla.*

IN THE COURT OF SH. SUSHIL KUKREJA, PRESIDING JUDGE, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA (H.P.)

Ref. No. 15 of 2012

Instituted on 30-3-2012

Decided on 30-11-2017

J.P. Mehta s/o Shri Ram Krishan Mehta, r/o Village Shathli, P.O Junga, Tehsil & District Shimla, H.P., presently posted a Clerk Electricity Sub-Division HPSEBL, Khalini Shimla 171 002. . .*Petitioner.*

Vs.

HP State Electricity Board, through its Director (Personal) Vidyut Bhawan, Shimla-4. . .*Respondent.*

Reference under Section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri Bhagwan Chand, Advocate

For respondent **:** Shri Ramakant Sharma, Advocate

AWARD

The following reference has been sent by the appropriate government for adjudication:

"Whether demands raised by Shri Jai Prakash Mehta s/o Shir Ram Krishan Mehta, Village Shathli, P.O Junga, Tehsil & District Shimla through Shri Hira Lal Verma, Dy. General Secretary, H.P. State Electricity Board Employees Union *vide* demand notice dated 3-9-2009 (copy enclosed) before the Secretary, H.P. State Electricity Board, Vidyut Bhawan, Shimla-4 regarding the service conditions, equal pay for equal work on account of performing duties of clerk and regularization from the date his junior namely Mrs. Vijay Kaushal had been regularized, is legal and justified? If yes, what relief of difference of wages, past service benefits, seniority and regularization the above workman is entitled to from the above employer?"

2. In nutshell the case of the petitioner is that he being matriculate had initially joined the services of the respondent on 1-10-1986 in the Electrical Section HPSEBL, Junga on muster roll basis as beldar but he was assigned the work of telephone attendant right from the very first day. The petitioner also used to prepare the electricity bills at the premises of the consumers during the billing cycles, which work is clerical in nature and he continued to work as such till August 1989 and thereafter on opening of new Electrical Sub-Division at Junga, the petitioner was issued the muster-roll of Bill-Distributor in the month of August/September, 1989 at a daily rate of Rs. 18/- and in between he also improved his educational qualification by passing the Higher Secondary Part-II from the H.P. Board of School Education at Dharamshala. It is further averred that the petitioner was put on the job which was clerical in nature as he used to do spot billing of domestic, commercial and industrial consumers, maintaining account ledgers, cash collection etc. but no TA/DA had been paid to him. It is also averred that a seniority list of daily rated workmen in respect of Shimla Division had been circulated by the respondent in which the petitioner had been shown as Bill-Distributor separately and feeling aggrieved by the said seniority list, he made a representation to the secretary of respondent Board on 24-5-1992 but the respondent Board had not taken any action on the representation of the petitioner and thereafter a reminder dated 24-9-1992 had been submitted by him through registered post. The petitioner used to mark his initial on the works being performed by him but the respondent Board had directed him not to put his initials in the official record in order to disentitle him from claiming benefits of a clerk. *Vide* office order dated 29-8-1989, the respondent Board had notified the daily rates in different places/Districts of H.P. for clerk/meter readers/clerks engaged on daily rated basis *w.e.f.* 6-9-1988 in which the daily rate for Shimla proper had been notified at Rs. 42/-

per day and for outside Shimla proper the rate was Rs. 37 per day but the petitioner had been paid @ Rs. 22 per day for the duties of a clerk performed by him. On Feb. 1996, the services of the petitioner were regularized as peon instead of clerk. Thereafter, the petitioner filed an OA before the Administrative Tribunal and consequent upon the closure of the Administrative Tribunal, the records of the cases pending before it were transferred to the Hon'ble High Court of H.P. and the OA filed by the petitioner was also transferred to Hon'ble High Court which was lateron withdrawn from the Hon'ble High Court with the liberty to seek redresal of the grievances in the appropriate forum and thereafter consequent upon the withdrawal of the writ petition, the petitioner raised the industrial dispute. Against this back-drop the petitioner prayed that the seniority list contained in Annexure P-1 may be quashed and set aside and the respondent may be directed to prepare fresh seniority list of clerks (daily rated) as it stood on 31-8-1991, initial engagement of the petitioner may be declared as that of a daily rated clerk on the basis of clerical work performed by him, respondent may be directed to pay the wages admissible to a clerk for the period he worked on daily rated basis on the basis of equal pay for equal work and respondent be directed to regularize the services of the petitioner as clerk from the date of his junior namely Mrs. Vijay Kaushal has been regularized as clerk with all consequential benefits has been made.

3. By filing reply, the respondent contested the claim of the petitioner wherein it has been admitted that the petitioner had initially been deployed as a beldar with the respondent Board at Electrical Section Junga *w.e.f.* 1-10-1986 and worked upto 25-8-1989 in the same capacity. Since, the new Sub-Division at Junga was opened and made functional *w.e.f.* August 1989, hence, prior to its opening, no billing work was being done as the responsibilities of preparation of bills and maintenance of ledger etc. is done at Sub-Division level only. It is further admitted that on creation of Sub-Division at Junga, the muster-roll of Bill Distributor was issued *w.e.f.* 26-8-1989 onwards @ Rs. 18/- per day and the services of the petitioner were decided to be utilized for distribution of electricity bills. It is asserted that the petitioner voluntary made some entries in the consumer ledgers while sitting idle in the office just to show his experience being a matriculate and undertake some writing jobs very rarely in order to prove that he had been working as MLC/Clerk. The petitioner had appended his signatures in the ledgers with malafide intentions just to prove and gain wrong benefits at later stage. The name of the petitioner was rightly mentioned in the category of bill distributor in the seniority list as he was engaged for the purpose of distribution of electricity bills. The nature of job of bill distributor and clerk is different and the claim of the petitioner to assign him the seniority above Smt. Vijay Kaushal who had been claimed junior to him does not arise. The petitioner had been regularized as a peon because as per the R&P Rules the post of bill distributor is filled in 100% by promotion as there is no provision for direct recruitment of bill distributor. The respondent prayed for the dismissal of the claim petition.

4. Rejoinder was not filed. Pleadings of the parties give rise to the following issues which were struck on 5-6-2013.

1. Whether the demand raised by the petitioner (Jai Prakash Mehta) through Heera Lal Verma Dy. General Secretary, H.P. State Electricity Board Employees Union *vide* demand notice dated 3-9-2009 regarding the service conditions equal pay for equal work on account of performing the duties of clerk and regularization from the date of his junior namely Mrs. Vijay Kaushal had been regularized is legal and justified?

. .*OPP.*

2. If issue No.1 is proved in affirmative to what service benefits including difference of wages, past service benefits, seniority and regularization the petitioner is entitled to?

. .*OPP.*

3. Relief.

5. Besides having heard the Learned counsel for the parties, I have also gone through the record of the case carefully.

6. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under.

Issue No.1 : No

Issue No.2 : Becomes redundant

Relief : Reference answered against the petitioner per operative part of award.

Reasons for findings

Issue No.1 :

7. The learned counsel for the petitioner contended that initially the petitioner was appointed as beldar on 1-10-1986 on daily wages basis but right from the date of his engagement, he had performed the work which was clerical in nature, hence, he is entitled for the wages at par with the wages of clerk on the basis of equal pay for equal work.

8. On the other hand, Ld. counsel for respondent contended that the petitioner was initially engaged as a beldar and thereafter he was made as bill distributor and then he has been regularized as peon in accordance with relevant R&P rules. He further contended that the petitioner had voluntarily made some entries in the consumer ledger while sitting idle in the office with malafide intention to gain wrong benefits at a later stage as such he cannot be paid wages at par with the wages of clerk.

9. To prove his case, the petitioner has appeared into the witness box as PW-1 to depose that on 1-10-1986, he was initially engaged against muster-roll of beldar at E.S.D Junga and he had worked as spot billing. He also attended the telephone right from very first day of his joining. He was assigned the duties of bill distributor by the Assistant Engineer, when new electrical sub division, Junga was opened and the daily rate at that time was fixed at ₹ 18/- and he was doing the work of bill distributor till 2-2-1996. He deposed that the work against which he did his duties was of clerical but he was issued muster-roll of bill distributor and during the aforesaid period he made entries in the ledger of domestic, commercial and industrial ledgers besides this he had also maintained the abstract of electrical sub division Account ledger and cash collection etc. He further deposed that in the seniority lists mark X and mark Y, he has been shown as bill distributor and as per seniority lists, Smt. Vijay Kaushal was his junior. He also deposed that *vide* representation Ex. PW-1/A he represented to the Secretary but his representation was not replied and thereafter *vide* Ex. PW-1/B, he sent a reminder which was also not replied by the respondent and thereafter he filed an OA before the Administrative Tribunal which was transferred to Hon'ble High Court but the Hon'ble High Court directed him to file the case before appropriate Court and then he raised the industrial dispute. He deposed that his matter should be considered for equal pay for equal work as he was performing the duties of clerk from the date of his appointment. He prayed that he be regularized *w.e.f.* 1995 and seniority list mark Y be quashed. He further prayed that he is entitled for wages of clerk *w.e.f.* 1-10-1986. In cross-examination, he denied that since he was matriculate, for this reason, on his own, he had opted to do the work of clerical nature. He admitted that as per R&P Rules, there is no provision for a peon recruited as beldar to be made as bill distributor but volunteered that many other persons who had been appointed as beldar were made clerks. He stated that as per R&P Rules, the work

of clerk and bill distributor is separate and the seniority lists have not been challenged anywhere else then in then in the Court of law.

10. PW-2 Shri Sushil Kumar, Assistant Engineer Junga, has stated that the petitioner was engaged at Sub Division Junga in the year, 1986 and he was regularized as a peon in the year, 1996. When he was initially engaged he used to maintain the accounts and used to make entries in the ledger and he also used to receive the cash and the aforesaid work was of a clerk. He further deposed that in the cash book Ex. PW-2/A-1, the petitioner had made entries in the circle "A" on 5-10-1990. The entries in Ex. PW-2/A-2 and Ex. PW-2/A-3 also pertains to cash and as per receipt Ex. PW-2/A-4, the petitioner had received the cash. The petitioner had also made entries in the consumer ledger *w.e.f.* 1992 to 1995, the copies of which are Ex. PW-2/A-7 to Ex. PW-2/A-19. The copies of seniority lists are Ex. PW-2/A-20 and Ex. PW-2/A-21. He deposed that as per the record, the petitioner had worked as a clerk from the beginning and had not worked as a peon. In cross-examination, he expressed his ignorance to the suggestion that the petitioner was engaged as a beldar in the year, 1986. He admitted that as per policy, the petitioner was regularized after ten years in the year, 1996. He also expressed his ignorance that as per R&P Rules, the post of clerk cannot be filled by way of direct recruitment. He denied that only the senior of the petitioner has been regularized.

11. On the other hand the respondent examined one Shri Vinod Kumar Additional Assistant Engineer Electrical Division Shimla as RW-1, who deposed that the petitioner was engaged as beldar on 1-10-1986 and he worked as such till 25-8-1989 and thereafter *w.e.f.* 26-8-1989, the work of bill distributor was given to him. The petitioner had only worked on the post of bill distributor and he was given the seniority of bill distributor as per seniority list Ex. R-1. He further deposed that Vijay Kaushal was appointed as daily waged clerk and the petitioner was regularized on the post of peon. In cross-examination he denied that the petitioner had signed at his own will on Ex. PW-2/A-1. He admitted that in PW-2/A-9 to Ex. PW-2/A-19 the petitioner had appended his signatures. He further deposed that the bill distributor used to issue the bills.

12. I have closely scrutinized the entire evidence on record and after the closure scrutiny thereof it has become clear that the petitioner was initially appointed as a beldar with the respondent board at Electrical Section Junga *w.e.f.* 1-10-1986 and he worked there upto 25-8-1989. It has also become clear that on the creation of Electrical Sub Division Junga, the petitioner was appointed as a bill distributor for the distribution of electricity bills *w.e.f* 26-8-1989. The case of the petitioner is that his services were being used as a telephone attendant right from the very first day and he was also put to the preparation of electricity bills at the premises of consumers which work was clerical in nature and he continued to do the clerical work, therefore, he is entitled for the wages at par with the wages of clerk on the basis of equal pay for equal work on account of performing the duties of clerk. The learned counsel for the petitioner relied upon the testimony of PW-2 Shri Sushil Kumar from the office of electrical sub division Junga who deposed that the petitioner was doing the work which was clerical in nature and on 5-10-1990, he made entry in circle A in the cash book Ex. PW-2/A-1. He also deposed that *w.e.f.* 1992 to 1995 the petitioner had made entries in the consumer ledger Ex. PW-2/A-7 to Ex. PW-2/A-19. However, the case of the respondent is that the petitioner had voluntarily made the aforesaid entries in the consumer ledger while sitting idle in the office in order to prove that he had been working as clerk to gain benefits at a later stage with malafide intention. The further case of the petitioner is that he used to put and mark his initials on the work(s) being performed by him but Er. K.D. Sharma issued an order restraining him from putting signatures and the respondent board had directed him not to put his signatures on the official record. However, in cross-examination, he admitted that there was no order in writing asking him not to sign the ledger. Therefore, in such a situation it was incumbent upon the

petitioner to prove on record by leading cogent and satisfactory evidence that right from the first day of his engagement, the work of clerical nature was taken from him by his superiors. However, the petitioner has failed to prove any office order or anything in writing on record to show that he was directed by his superiors to do the job of clerical nature. Merely because the petitioner had made only one entry in the cash book on 5-10-1990 and some entries in the consumer ledger voluntarily, it cannot be said that the petitioner was doing the work of clerk right from the first date of his egnagement. As per Recruitment and Promotion Rules, the post of peon and post of bill distributor is class-IV post whereas the post of clerk is class-III post. The post of bill distributor is filled in 100% by way of promotion from amongst Jamadar/Daftri on the basis of seniority. It is not disputed that the petitioner was made as bill distributor *w.e.f.* 26-8-1989 for which the respondent had issued muster-roll and his claim for regularization of the services had been considered to the post of peon in accordance with the Rules. Since, there is no provision for direct recruitment of bill distributor as such his services were regularized in the cadre of peon. As per R & P Rules, the post of clerk is filled in 75% by way of direct recruitment or on contract basis through the concerned recruiting agency and 25% by way of promotion from class-IV staff. It is not disputed that the petitioner was promoted as a clerk in the year, 2004. However, the petitioner was never engaged as a clerk by way of direct recruitment rather he was engaged as a beldar on 1-10-1986. Since, the petitioner had never competed for being appointed as a clerk by way of direct recruitment as per the R&P Rules, therefore, he cannot be given initial engagement as a clerk from the back date by way of back-door entry in violation of the R&P Rules as he was doing the work of bill distributor.

13. Moreover, The petitioner has failed to prove by leading cogent and satisfactory evidence on record to suggest that the job being undertaken by him was the same as the job being undertaken by Smt. Vijay Kaushal. RW-1 has specifically deposed in his statement that Smt. Vijay Kaushal was working as a clerk on daily wages basis whereas the petitioner was regularized as a peon. The nature of job of bill distributor and clerk is different and the claim of the petitioner to assign him the seniority above Smt. Vijay Kaushal is misconceived as the petitioner cannot claim seniority of a different cadre in which he was not working. Therefore the petitioner cannot claim seniority over and above Smt. Vijay Kaushal. The name of the petitioner has rightly been mentioned in the category of bill distributor in the seniority list. Moreover, the petitioner has failed to implead Smt. Vijay Kaushal as a party in the present claim petition and in the absence of Smt. Vijay Kaushal, no adverse order can be passed against her.

14. Therefore, keeping in view my aforesaid discussion and also in view of the entire evidence on record, it can safely be held that the demand raised by the petitioner *vide* demand notice dated 3-9-2009 regarding the service conditions, equal pay for equal work on account of performing the duties of clerk and regularization from the date of his junior namely Mrs. Vijay Kaushal had been regularized is neither legal nor justified. Accordingly, issue No.1 is decided in favour of the respondent and against the petitioner.

Issue No.2 :

15. Since, the petitioner has failed to prove issue No.1, this issue becomes redundant.

Relief :

As a sequel to my findings on the aforesaid issues, the claim petition filed by the petitioner deserves to be dismissed and accordingly, the same is dismissed with the result, this reference is decided against the petitioner and in favour of the respondent. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today on this 30th day of November, 2017.

(SUSHIL KUKREJA),
Presiding Judge,
Industrial Tribunal-cum- Labour Court, Shimla.

LAW DEPARTMENT

NOTIFICATION

Shimla-2, the 17th March, 2018

No. LLR-E(9)-1/2018.—In continuation of this Department's Notification of even number dated 7th March, 2018, the Governor, Himachal Pradesh is pleased to order to appoint Sh. J. P. Bhatt, Advocate Punjab & Haryana High Court, Chandigarh, r/o House No. 2076, Sector 27-C, Chandigarh,(Mob. 094170-55407) as panel Advocate to represent the State of Himachal Pradesh before the Hon'ble High Court of Punjab & Haryana/Central Administrative Tribunal and Debt Recovery Tribunal at Chandigarh in Civil/Criminal cases with immediate effect.

2. This engagement is purely at the pleasure of the State Government and can be withdrawn at any stage without assigning any reason thereof.

3. The other terms and conditions as contained in the Notification of this Department dated 31st July, 2012 would continue to apply to the said panel Advocate.

4. All the Departments are requested that whenever they need the services of any Advocate in the particular Civil/Criminal case or in cases of vital importance to the State, they may engage above Advocate with the prior approval of the Law Department and in consultation with the Advocate General, Himachal Pradesh**.**

By order,
Sd/-
LR-cum-Secretary (Law).

LAW DEPARTMENT

NOTIFICATION

Shimla, the 17th March, 2018

File No. LLR-E(9)-1/2018.—In continuation of this Department's Notification of even number dated 7th March, 2018, the Governor, Himachal Pradesh is pleased to order to appoint Sh. Sanjay Kumar, Advocate 10/12 Pant Nagar, Jangpura Extension, New Delhi, as panel Advocate to represent the State of Himachal Pradesh before the Hon'ble Supreme Court of India in Civil/Criminal cases with immediate effect.

2. This engagement is purely at the pleasure of the State Government and can be withdrawn at any stage without assigning any reasons thereof.

3. The other terms and conditions as contained in the Notification of this Department No. LLR-E(9)1/88-III (Loose) dated 28th May, 2012 and 31st July, 2012 would continue to apply to the said panel Advocate.

4. All the Department are requested that whenever they need the services of any Advocate in the particular Civil/Criminal case or in cases of vital importance to the State, they may engage above Advocate with the prior approval of the Law Department and in consultation with the Advocate General, Himachal Pradesh.

By order,
Sd/-
LR-cum -Secretary (Law).

LAW DEPARTMENT

NOTIFICATION

Shimla, the 17th March, 2018

File No. LLR-E (9)-1/2018.—In continuation of this Department's Notification of even number dated 7th March, 2018, the Governor, Himachal Pradesh is pleased to order that Sh. J. S. Attri, Senior Advocate, will represent the State of Himachal Pradesh in Original Suit No. 2 of 1996 and all other Original Suits relating to the Punjab Re-organisation Act, 1966, and any other case entrusted to him by the State Government in the Supreme Court of India on the terms and conditions of fee as contained in the Notification No. LLR-E(9)2/2012 dated 30th April, 2013, with immediate effect.

2. This engagement is purely at the pleasure of the State Government and can be withdrawn at any stage without assigning any reasons thereof.

3. All the Department are requested that whenever they need the services of above Advocate in any other case or in other cases of vital importance to the State, they may engage above Advocate with the prior approval of the Law Department and in consultation with the Advocate General, Himachal Pradesh.

By order,
Sd/-
LR-cum -Secretary (Law).

LAW DEPARTMENT

NOTIFICATION

Shimla-2, the 21st March , 2018

No. LLR-E(9)- 6/2014-Leg.-II.—WHEREAS, the following Advocates were appointed as Public Notaries in the Sub-Divisions mentioned in Column No. 2 below *vide* separate Government Notifications and their names were entered in the Register of Notaries under section 4 of the

Notaries Act, 1952, and their certificates of practice have expired on the date specified against their names and they are ceased to be Notary:—

Sl. No.	Name and Sub-Division of Notary	Registration No.	Date of expiry of certificate of practice
1.	Sh. Romesh Chander, Una, H.P.	9	05-01-2016
2.	Sh. Jai Singh, Amb, Distt. Una, H.P.	316	14-07-2015
3.	Sh. Jeet Singh Thakur, Nahan, Distt. Sirmour, H.P.	347	14-02-2016

WHEREAS, show cause notices were issued to them on 14-06-2017 and subsequent reminders on 21-09-2017 to show cause as to why their names should not be removed for non-renewal of their certificates of practice, from the Register of Notaries;

WHEREAS, no replies were received from them even after lapse of about six months.

NOW, therefore, the Governor, Himachal Pradesh, in exercise of the powers conferred by section 10(f) of the Notaries Act, 1952 read with rule 13(13) of the Notaries Rules, 1956, hereby order the removal of their names from the Register of Notaries with immediate effect.

By order
(YASHWANT SINGH CHOGAL),
LR-cum- Secretary (Law).

LAW DEPARTMENT

NOTICE

Shimla-2, the 21st March, 2018

No. LLR-E(9)-9/2018-Leg.—Whereas, the following Advocates of District Kangra H.P. have applied for appointment of Public Notary in the places and areas mentioned against their names under rule 4 of the Notaries Rules, 1956:—

Sl. No.	Name of Advocate	Area for which they have applied for appointment of Notary
1.	Shri Shirish Bassi, Advocate s/o Late Shri Surjit Prashad Bassi, r/o H. No. 24, Ward No. 2, VPO Nagrota Bagwan, Tehsil Nagrota, District Kangra, H.P.	Sub-Division Nagrota Bagwan
2.	Shri Harnek Singh, Advocate s/o Shri Daulat Singh, r/o VPO Jagnoli, Tehsil Fatehpur, District Kangra, H.P.	Sub-Division Fatehpur
3.	Shri Ajay Pathania, Advocate s/o Shri Madan Singh, r/o Village Dhaneti Charorian, PO Dhaneti Bhurian, Tehsil Fatehpur, District Kangra, H.P.	Sub-Division Fatehpur

Therefore, I undersigned in exercise of the power conferred *vide* Government Notification No. LLR-A(2)-1/2014-Leg. dated 1st July, 2017, hereby issue notice under rule 6 of the Notaries Rules, 1956, for the information of general public for inviting objections, if any, within a period of fifteen days from the date of publication of this notice in Rajpatra, H.P. against their appointment as Notary Public in the places mentioned against their names of their respective Sub-Divisions.

Sd/-
(COMPETENT AUTHORITY),
DLR-cum-Deputy Secretary (Law-Legislation).

In the Court of Assistant Collector 2nd Grade Indora, District Kangra, H.P.

Case No. 66/N.T./2016 Next Date of Hearing 24-4-2018

Shri Chander Mohan *Vs*. Shri Jagdev Singh & Others

Application for Partition of Land :

The following Respondents required service through publication :—

1. Sh. Jagdev Singh s/o Sh. Ram Prakash, 2. Sh. Mahinder Singh s/o Sh. Ram Parkash, 3. Smt. Sanyogita Devi d/o Sh. Ram Prakash, 4. Smt. Sudarshana Devi wd/o Sh. Onkar Singh, 5. Smt. Prakash Kumari d/o Sh. Ganga Ram, 6. Sh. Kalyan Singh s/o Sh. Onkar Singh, 7. Sh. Neraj Kumar s/o Sh. Prem Singh, 8. Sh. Jaihind s/o Sh. Prem Singh, 9. Sh. Jeewan Singh s/o Sh. Kuldeep Singh, 10. Sh. Bhajan Singh s/o Sh. Kuldeep Singh, 11. Sh. Multan Singh s/o Sh. Kuldeep Singh, 12. Sh. Darshan Singh alias Sh. Avtar Singh, 13. Sh. Rachpal Singh s/o Sh. Dharam Singh, 14. Sh. Kamalbir Singh s/o Sh. Dharam Singh, 15. Sh. Joginder Singh s/o Sh. Dharam Singh, 16. Sh. Dilwar Singh s/o Sh. Dharam Singh, 17. Sh. Amar Singh s/o Sh. Dharam Singh, 18. Sh. Randir Singh s/o Sh. Hoshiar Singh, 19. Sh. Jasbir Singh s/o Sh. Hoshiar Singh, 20. Smt. Vijay Kumari w/o Sh. Dilwar Singh, 21. Smt. Veena Devi w/o Sh. Amar Singh, 22. Sh. Tarsem Singh s/o Roop Singh, 23. Sh. Prem Singh s/o Sh. Roop Singh, 24. Sh. Ravinder Singh s/o Sh. Gian Singh, 25. Sh. Vijay Singh s/o Sh. Gian Singh, 26. Sh. Reghubir Singh s/o Sh. Gian Singh, 27. Smt. Soma Devi wd/o Sh. Gian Singh, 28. Sh. Kuldeep Singh s/o Sh. Uttam Singh, 29. Smt. Kanta Devi d/o Sh. Uttam Singh, 30. Sh. Santosh Kumari d/o Sh. Uttam Singh, 31. Smt. Naresh Kumari d/o Sh. Uttam Singh, 32. Smt. Rachana Devi wd/o Sh. Uttam Singh, 33. Sh. Bir Singh s/o Sh. Birbal alias Sh. Prabh Singh, 34. Sh. Rakesh Kumar s/o Sh. Parkash Chand, 35. Sh. Onkar Singh s/o Sh. Parkash Chand, 36. Sh. Haresh Chand s/o Sh. Prakash Chand, 37. Sh. Surinder Kumar s/o Sh. Jagdish Lal, 38. Sh. Monu Kumar s/o jagdish Lal, 39. Kumari Anjana Rani d/o Sh. Jagdish Lal, 40. Manjna Rani d/o Sh. Jagdish Lal, 41. Saleema Devi d/o Sh. Jagdish Lal, 42. Ranjana Rani d/o Sh. Jagdish Lal, 43. Smt. Kamlesh Devi wd/o Sh. Jagdish Lal, 44. Sh. Dilbag Singh s/o Sh. Bhagat Ram, 45. Sh. Sukhchain Singh s/o Sh. Bhagat Ram, 46. Smt. Kusalya Devi d/o Sh. Bhagat Ram, 47. Sh. Balwant Singh s/o Sh. Surjan Singh, 48. Sh. Subhash Singh s/o Sh. Banshi Lal, 49. Sh. Maan Singh s/o Sh. Banshi Lal, 50. Sh. Darshan Singh s/o Sh. Banshi Lal, 51. Sh. Haresh Chand s/o Sh. Baldev Singh, 52. Smt. Kanchan Devi w/o Sh. Gian Singh, 53. Sh. Kartar Singh s/o Sh. Gian Singh, 54. Sh. Shakti Chand s/o Sh. Inder Ram, 55. Sh. Dalip Singh s/o Inder Ram, 56. Sh. Shakati Chand s/o Sh. Inder Ram, 57. Sh. Maan Chand s/o Sh. Durga Dass, 58. Sh. Kishore Lal s/o Sh. Durga Dass, 59. Sh. Bikram Singh s/o Sh. Joginder Singh, 60. Sh. Ravinder Singh s/o Sh. Joginder Singh, 61. Smt. Sheela Devi wd/o Sh. Joginder Singh, 62. Sh. Hoshiar Singh s/o Sh. Narayan Dass, 63. Sh. Mehar Singh s/o Sh. Narayan Dass,

64. Sh. Roop Chand s/o Sh. Narayan Dass, 65. Sh. Kashmir Singh s/o Sh. Narayan Dass, 66. Sh. Darshan Singh s/o Sh. Sukh Lal, 67. Sh. Jagdish Chand s/o Sh. Harnam Singh, 68. Sh.Parvesh Kumar s/o Sh. Harnam Singh, 69. Sh. Pyiar Chand s/o Sh. Brij Lal, 70. Sh. Kishori Lal s/o Sh. Hari Ram, 71. Sh. Kartat Chand s/o Sh. Hari Ram, 72. Sh. Parkash Chand s/o Shahjada, 73. Sh. Sher Singh s/o Sh. Shahjada, 74. Sh. Falatu Ram s/o Sh. Ratti Ram, 75. Sh. Karam Chand s/o Sh. Jaishi Ram, 76. Sh. Pawan Kumar s/o Sh. Jaishi Ram, 77. Sh. Madan Lal s/o Sh. Dhanni Ram, 78. Sh. Rakesh Kumar s/o Sh. Dhanni Ram, 79. Smt. Sondha Devi wd/o Sh. Durga Dass, 80. Sh. Tara Chand s/o Sh. Saligram all Residents of Village Rajgir, P. O. Bahadpur, Tehsil Indora, District Kangra, H.P.

Subject.— Publication in Partition case.

In the above noted case/missal above mentioned respondents required served through publication in the Khata No. 183 of Mohal & Mauza Rajgir, Tehsil Indora, District Kangra H. P., on the next date of hearing 24-4-2018 to contest and appear in the above said case, in person or through counsel in the court, otherwise as per rule non appeared respondents be declared *exparte* and the case be disposed off accordingly. The publication is necessary before the fixed date.

Sd/-
Assistant Collector 2nd Grade,
Indora, Tehsil Indora, District Kangra, H.P.

In the Court of Assistant Collector 2nd Grade Indora, District Kangra, H.P.

Case No. 65/N.T./2016 Next Date of Hearing 24-4-2018

Shri Chander Mohan *Vs*. Shri Jagdev Singh & Others

Application for Partition of Land :

The following Respondents required service through publication :

1. Sh. Jagdev Singh s/o Sh. Ram Prakash, 2. Sh. Mahinder Singh s/o Sh. Ram Parkash, 3. Smt. Sanyogita Devi d/o Sh. Ram Prakash, 4. Smt. Sudarshana Devi wd/o Sh. Onkar Singh, 5. Smt. Prakash Kumari d/o Sh. Ganga Ram, 6. Sh. Kalyan Singh s/o Sh. Onkar Singh, 7. Sh. Neraj Kumar s/o Sh. Prem Singh, 8. Sh. Jaihind s/o Sh. Prem Singh, 9. Sh. Jeewan Singh s/o Sh. Kuldeep Singh, 10. Sh. Bhajan Singh s/o Sh. Kuldeep Singh, 11. Sh. Multan Singh s/o Sh. Kuldeep Singh, 12. Smt. Anisha Kumari w/o Sh. Satish Kumar, 13. Sh. Satish Kumar s/o Sh. Jatinder, 14. Sh. Darshan Singh alias Sh. Avtar Singh, 15. Sh. Rachpal Singh s/o Sh. Dharam Singh, 16. Sh. Kamalbir Singh s/o Sh. Dharam Singh, 17. Sh. Joginder Singh s/o Sh. Dharam Singh, 18. Sh. Dilwar Singh s/o Sh. Dharam Singh, 19. Sh. Amar Singh s/o Sh. Dharam Singh, 20. Sh. Randir Singh s/o Sh. Hoshiar Singh, 21. Sh. Jasbir Singh s/o Sh. Hoshiar Singh, 22. Smt. Vijay Kumari w/o Sh. Dilwar Singh, 23. Smt. Veena Devi w/o Sh. Amar Singh, 24. Sh. Kuldeep Singh s/o Sh. Uttam Singh, 25. Sh. Rai Singh s/o Sh. Paras Ram s/o Kirpa Ram, 26. Sh. Rakesh Kumar s/o Sh. Parkash Chand, 27. Sh. Onkar Singh s/o Sh. Parkash Chand, 28. Sh. Harash Chand s/o Sh. Prakash Chand, 29. Sh. Surinder Kumar s/o Sh. Jagdish Lal, 30. Sh. Monu Kumar s/o Jagdish Lal, 31. Kumari Anjana Rani d/o Sh. Jagdish Lal, 32. Manjna Rani d/o Sh. Jagdish Lal, 33. Saleena Devi d/o Sh. Jagdish Lal, 34. Ranjana Rani d/o Sh. Jagdish Lal, 35. Smt. Kamlesh Devi wd/o Sh. Jagdish Lal, 36. Sh. Dilbag Singh s/o Sh. Bhagat Ram, 37. Sh. Sukhchain Singh s/o Sh. Bhagat Ram, 38. Smt. Kusalya Devi d/o Sh. Bhagat Ram,

39. Sh. Balwant Singh s/o Sh. Surjan Singh, 40. Sh. Subhash Singh s/o Sh. Banshi Lal, 41. Sh. Maan Singh s/o Sh. Banshi Lal, 42. Sh. Darshan Singh s/o Sh. Banshi Lal, 43. Sh. Haresh Chand s/o Sh. Baldev Singh, 44. Smt. Kanchan Devi w/o Sh. Baldev Singh, 45. Sh. Kartar Singh s/o Sh. Gian Singh, 46. Sh. Shakti Chand s/o Sh. Inder Ram, 47. Sh. Dalip Singh s/o Inder Ram, 48. Sh. Maan Chand s/o Sh. Durga Dass, 49. Sh. Kishore Lal s/o Sh. Durga Dass, 50. Sh. Bikram Singh s/o Sh. Jaginder Singh, 51. Sh. Ravinder Kumar s/o Sh. Joginder Singh, 52. Sh. Hoshiar Singh s/o Sh. Narayan Dass, 53. Sh. Mehar Chand s/o Sh. Narayan Dass, 54. Sh. Roop Chand s/o Sh. Narayan Dass, 55. Sh. Kashmir Singh s/o Sh. Narayan Dass, 56. Sh. Darshan Singh s/o Sh. Sukh Lal, 57. Sh. Jagdish Chand s/o Sh. Harnam Singh, 58. Sh. Parvesh Kumar s/o Sh. Harnam Singh, 59. Sh. Pyiar Chand s/o Sh. Brij Lal, 60. Sh. Kishori Lal s/o Sh. Hari Ram, 61. Sh. Kartar Chand s/o Sh. Hari Ram, 62. Sh. Parkash Chand s/o Shahjada, 63. Sh. Sher Singh s/o Sh. Shahjada, 64. Sh. Falatu Ram s/o Sh. Ratti Ram, 65. Sh. Karam Chand s/o Sh. Jaishi Ram, 66. Sh. Pawan Kumar s/o Sh. Jaishi Ram, 67. Sh. Madan Lal s/o Sh. Dhanni Ram, 68. Sh. Rakesh Kumar s/o Sh. Dhanni Ram, 69. Smt. Sondha Devi wd/o Sh. Durga Dass, 70. Smt. Sheela Devi wd/o Sh. Joginder Singh all residents of Village Rajgir, P.O. Bahadpur, Tehsil Indora, District Kangra, H. P.

Subject.— Publication in Partition case.

In the above noted case/missal above mentioned respondents required served through publication in the Khata No. 185 of Mohal & Mauza Rajgir, Tehsil Indora, District Kangra H. P., on the next date of hearing 24-4-2018 to contest and appear in the above said case, in person or through counsel in the court, otherwise as per rule non appeared respondents be declared *exparte* and the case be disposed off accordingly. The publication is necessary before the fixed date.

Sd/-
Assistant Collector 2nd Grade,
Indora, Tehsil Indora, District Kangra, H.P.

In the Court of Assistant Collector 2nd Grade Indora, District Kangra, H.P.

Case No. 64/N.T./2016 Next Date of Hearing 24-4-2018

Shri Chander Mohan *Vs*. Shri Jagdev Singh & Others

Application for Partition of Land :

The following Respondents required service through publication :

1. Sh. Jagdev Singh s/o Sh. Ram Prakash, 2. Sh. Mahinder Singh s/o Sh. Ram Parkash, 3. Smt. Sanyogita Devi d/o Sh. Ram Prakash, 4. Smt. Sudarshana Devi wd/o Sh. Onkar Singh, 5. Smt. Prakash Kumari d/o Sh. Ganga Ram, 6. Sh. Kalyan Singh s/o Sh. Onkar Singh, 7. Sh. Neraj Kumar s/o Sh. Prem Singh, 8. Sh. Jaihind s/o Sh. Prem Singh, 9. Sh. Jeewan Singh s/o Sh. Kuldeep Singh, 10. Sh. Bhajan Singh s/o Sh. Kuldeep Singh, 11. Sh. Multan Singh s/o Sh. Kuldeep Singh, 12. Sh. Darshan Singh alias Sh. Avtar Singh, 13. Sh. Rachpal Singh s/o Sh. Dharam Singh, 14. Sh. Kamalbir Singh s/o Sh. Dharam Singh, 15. Sh. Joginder Singh s/o Sh. Dharam Singh, 16. Sh. Dilwar Singh s/o Sh. Dharam Singh, 17. Sh. Amar Singh s/o Sh. Dharam Singh, 18. Sh. Randir Singh s/o Sh. Hoshiar Singh, 19. Sh. Jasbir Singh s/o Sh. Hoshiar Singh, 20. Smt. Vijay Kumari w/o Sh. Dilwar Singh, 21. Smt. Veena Devi w/o Sh. Amar Singh, 22. Sh. Dalbir Singh s/o Sh. Rachpal Singh, 23. Sh. Ravinder Singh s/o Sh. Gian Singh,

24. Sh. Vijay Singh s/o Sh. Gian Singh, 25. Reghubir Singh s/o Sh. Gian Singh, 26. Smt. Soma Devi wd/o Sh. Gian Singh, 27. Sh. Kuldeep Singh s/o Sh. Uttam Singh, 28. Smt. Kanta Devi d/o Sh. Uttam Singh, 29. Sh. Santosh Kumari d/o Sh. Uttam Singh, 30. Smt. Naresh Kumari d/o Sh. Uttam Singh, 31. Smt. Rachana Devi wd/o Sh. Uttam Singh, 32. Sh. Rakesh Kumar s/o Sh. Parkash Chand, 33. Sh. Onkar Singh s/o Sh. Parkash Chand, 34. Sh. Harash Chand s/o Sh. Prakash Chand, 35. Sh. Surinder Kumar s/o Sh. Jagdish Lal, 36. Sh. Monu Kumar s/o Jagdish Lal, 37. Kumari Anjana Rani d/o Sh. Jagdish Lal, 38. Manjna Rani d/o Sh. Jagdish Lal, 39. Saleena Devi d/o Sh. Jagdish Lal, 40. Ranjana Rani d/o Sh. Jagdish Lal, 41. Smt. Kamlesh Devi wd/o Sh. Jagdish Lal, 42. Sh. Dilbag Singh s/o Sh. Bhagat Ram, 43. Sh. Sukhchain Singh s/o Sh. Bhagat Ram, 44. Smt. Kusalya Devi s/o Sh. Bhagat Ram, 45. Sh. Balwant Singh s/o Sh. Surjan Singh, 46. Sh. Subhash Singh s/o Sh. Banshi Lal, 47. Sh. Maan Singh s/o Sh. Banshi Lal, 48. Sh. Darshan Singh s/o Sh. Banshi Lal, 49. Sh. Harash Chand s/o Sh. Baldev Singh, 50. Smt. Kanchan Devi w/o Sh. Baldev Singh, 51. Sh. Kartar Singh s/o Sh. Gian Singh, 52. Sh. Dalip Singh s/o Sh. Inder Ram, 53. Sh. Shakati Chand s/o Sh. Inder Ram, 54. Sh. Maan Chand s/o Sh. Durga Dass, 55. Sh. Kishore Lal s/o Sh. Durga Dass, 56. Sh. Bikram Singh s/o Sh. Joginder Singh, 57. Sh. Ravinder Kumar s/o Sh. Joginder Singh, 58. Sh. Hoshiar Singh s/o Sh. Narayan Dass, 59. Sh. Mehar Chand s/o Sh. Narayan Dass, 60. Sh. Roop Chand s/o Sh. Narayan Dass, 61. Sh. Kashmir Singh s/o Sh. Narayan Dass, 62. Sh. Darshan Singh s/o Sh. Sukh Lal, 63. Sh. Jagdish Chand s/o Sh. Harnam Singh, 64. Sh. Parvesh Kumar s/o Sh. Harnam Singh, 65. Sh. Pyiar Chand s/o Sh. Brij Lal, 66. Sh. Kishori Lal s/o Sh. Hari Ram, 67. Sh. Kartar Chand s/o Sh. Hari Ram, 68. Sh. Parkash Chand s/o Shahjada, 69. Sh. Sher Singh s/o Sh. Shahjada, 70. Sh. Falatu Ram s/o Sh. Ratti Ram, 71. Sh. Karam Chand s/o Sh. Jaishi Ram, 72. Sh. Pawan Kumar s/o Sh. Jaishi Ram, 73. Sh. Madan Lal s/o Sh. Dhanni Ram, 74. Sh. Rakesh Kumar s/o Sh. Dhanni Ram, 75. Smt. Sondha Devi wd/o Sh. Durga Dass, 76. Smt. Sheela Devi wd/o Sh. Joginder Singh, 77. Smt. Anisha Kumari w/o Sh. Satish Kumar, 78. Sh. Satish Kumar s/o Sh. Jatinder, all residents of Village Rajgir, P.O. Bahadpur, Tehsil Indora, District Kangra, H. P.

Subject.— Publication in Partition case.

In the above noted case/missal above mentioned respondents required served through publication in the Khata No. 184 of Mohal & Mauza Rajgir, Tehsil Indora, District Kangra H. P., on the next date of hearing 24-4-2018 to contest and appear in the above said case, in person or through counsel in the court, otherwise as per rule non appeared respondents be declared *exparte* and the case be disposed off accordingly. The publication is necessary before the fixed date.

Sd/-
Assistant Collector 2nd Grade,
Indora, Tehsil Indora, District Kangra, H.P.

In the Court of Assistant Collector 2nd Grade Indora, District Kangra, H.P.

Case No. 63/N.T./2016 Next Date of Hearing 24-4-2018

Shri Chander Mohan *Vs*. Shri Jagdev Singh & Others

Application for Partition of Land :

The following Respondents required service through publication :

1. Sh. Jagdev Singh s/o Sh. Ram Prakash, 2. Sh. Mahinder Singh s/o Sh. Ram Parkash, 3. Smt. Sanyogita Devi d/o Sh. Ram Prakash, 4. Smt. Prakash Kumari d/o Sh. Ganga Ram,

5. Sh. Kalyan Singh s/o Sh. Onkar Singh, 6. Smt. Sudarshana Devi d/o Sh. Onkar Singh, 7. Sh. Neraj Kumar s/o Sh. Prem Singh, 8. Sh. Jaihind s/o Sh. Prem Singh, 9. Sh. Jeewan Singh s/o Sh. Kuldeep Singh, 10. Sh. Bhajan Singh s/o Sh. Kuldeep Singh, 11. Sh. Multan Singh s/o Sh. Kuldeep Singh, 12. Sewa Singh s/o Sh. Hari Ram s/o Sh. Manorath, 13. Sh. Ajay Kumar s/o Sh. Sudarshan Singh, 14. Smt. Sushma Devi wd/o Sh. Sudarshan Singh, 15. Sh. Darshan Singh alias Sh. Avtar Singh, 16. Smt. Asha Devi w/o Sh. Onkar Singh, 17. Smt. Vijay Kumari w/o Sh. Dilwar Singh, 18. Smt. Veena Devi w/o Sh. Amar Singh, 19. Sh. Haresh Chand s/o Sh. Baldev Singh, 20. Smt. Kanchan Devi w/o Sh. Baldev Singh, 21. Sh. Kartar Singh s/o Sh. Gain Singh, 22. Sh. Shakati Chand s/o Sh. Inder Ram, 23. Sh. Dalip Singh s/o Sh. Inder Ram, 24. Sh. Hari Ram s/o Sh. Narayan Dass, 25. Sh. Hoshiar Singh s/o Sh. Narayan Dass, 26. Sh. Mehar Chand s/o Sh. Narayan Dass, 27. Sh. Roop Chand s/o Sh. Narayan Dass, 28. Sh. Kashmir Singh s/o Sh. Narayan Dass, 29. Sh. Jatinder Kumar s/o Sh. Roshan Lal, 30. Sh. Darshan Singh s/o Sh. Sukh Lal, 31. Sh. Jagdish Chand s/o Sh. Harnam Singh, 32. Sh. Pyiar Chand s/o Sh. Brij Lal, 33. Sh. Tarsem Lal s/o Sh. Kartar Chand, 34. Sh. Joginder Pal s/o Sh. Kartar Chand, 35. Sh. Sukhwinder Kumar s/o Sh. Kartar Chand, 36. Sh. Falatu Ram s/o Sh. Ratti Ram, 37. Sh. Karam Chand s/o Sh. Jaishi Ram, 38. Sh. Pawan Kumar s/o Sh. Jaishi Ram, 39. Sh. Madan Lal s/o Sh. Dhanni Ram, 40. Sh. Rakesh Kumar s/o Sh. Dhanni Ram, 41. Smt. Anisha Kumari w/o Sh. Satish, 42. Sh. Satish Kumar s/o Sh. Jatinder, all residents of Village Rajgir, P.O. Bahadpur, Tehsil Indora, District Kangra, H. P.

Subject.— Publication in Partition case.

In the above noted case/missal above mentioned respondents required served through publication in the Khata No. 176 of Mohal & Mauza Rajgir, Tehsil Indora, District Kangra H. P., on the next date of hearing 24-4-2018 to contest and appear in the above said case, in person or through counsel in the court, otherwise as per rule non appeared respondents be declared *exparte* and the case be disposed off accordingly. The publication is necessary before the fixed date.

Sd/-
Assistant Collector 2nd Grade,
Indora, Tehsil Indora, District Kangra, H.P.

In the Court of Assistant Collector 2nd Grade Indora, District Kangra, H.P.

Case No. 62/N.T./2016 Next Date of Hearing 24-4-2018

Shri Chander Mohan *Vs*. Shri Jagdev Singh & Others

Application for Partition of Land :

The following Respondents required service through publication :

1. Sh. Jagdev Singh s/o Sh. Ram Prakash, 2. Sh. Mahinder Singh s/o Sh. Ram Parkash, 3. Smt. Sanyogita Devi d/o Sh. Ram Prakash, 4. Sh. Kartar Singh s/o Sh. Om Parkash, 5. Smt. Darshana Devi d/o Sh. Om Parkash, 6. Smt. Prakash Kumari d/o Sh. Ganga Ram, 7. Sh. Kalyan Singh s/o Sh. Onkar Singh, 8. Smt. Sudarshana Devi d/o Sh. Onkar Singh, 9. Sh. Neraj Kumar s/o Sh. Prem Singh, 10. Sh. Jaihind s/o Sh. Prem Singh, 11. Sh. Jeewan Singh s/o Sh. Kuldeep Singh, 12. Sh. Bhajan Singh s/o Sh. Kuldeep Singh, 13. Sh. Multan Singh s/o Sh. Kuldeep Singh, 14. Sh. Prittam Singh s/o Sh. Hari Ram, 15. Sh. Subhash Chand s/o Sh. Hans Raj, 16. Sh. Sudarshan Singh s/o Sh. Onkar Singh, 17. Sh. Darshan Singh alias Sh. Avtar Singh,

18. Sh. Kulbir Singh s/o Sh. Baldev Singh, 19. Sh. Balbir Singh s/o Sh. Baldev Singh, 20. Sh. Ganesh Singh s/o Sh. Baldev Singh, 21. Smt. Shakti Devi d/o Sucheta, 22. Sh. Rachpal Singh s/o Sh. Dharam Singh, 23. Sh. Kamalbir Singh s/o Sh. Dharam Singh, 24. Sh. Joginder Singh s/o Sh. Dharam Singh, 25. Sh. Randir Singh s/o Sh. Hoshiar Singh, 26. Sh. Jasbir Singh s/o Sh. Hoshiar Singh, 27. Sh. Dilwar Singh s/o Sh. Dharam Singh, 28. Sh. Amar Singh s/o Sh. Dharam Singh, 29. Sh. Dalbir Singh s/o Sh. Rachpal Singh, 30. Sh. Ravinder Singh s/o Sh. Gian Singh, 31. Sh. Vijay Singh s/o Sh. Gian Singh, 32. Reghubir Singh s/o Sh. Gian Singh, 33. Smt. Soma Devi wd/o Sh. Gian Singh, 34. Sh. Kuldeep Singh s/o Sh. Uttam Singh, 35. Smt. Kanta Devi d/o Sh. Uttam Singh, 36. Sh. Santosh Kumari d/o Sh. Uttam Singh, 37. Smt. Naresh Kumari d/o Sh. Uttam Singh, 38. Smt. Rachana Devi wd/o Sh. Uttam Singh, 39. Sh. Bir Singh s/o Sh. Birbal alias Sh. Prabh Singh, 40. Sh. Haresh Chand s/o Sh. Baldev Singh, 41. Smt. Kanchan Devi w/o Sh. Gian Singh, 42. Sh. Kartar Singh s/o Sh. Gian Singh, 43. Sh. Shakati Chand s/o Sh. Inder Ram, 44. Sh. Dalip Singh s/o Sh. Inder Ram, 45. Sh. Kishore Lal s/o Sh. Durga Dass, 46. Smt. Sheela Devi wd/o Sh. Joginder Singh, 47. Sh. Des Raj s/o Sh. Hari Ram s/o Sh. Kishan, 48. Sh. Hoshiar Singh s/o Sh. Narayan Dass, 49. Sh. Mehar Chand s/o Sh. Narayan Dass, 50. Sh. Roop Chand s/o Sh. Narayan Dass, 51. Sh. Darshan Singh s/o Sh. Sukh Lal, 52. Sh. Jagdish Chand s/o Sh. Harnam Singh, 53. Sh. Parvesh Kumar s/o Sh. Harnam Singh, 54. Sh. Pyiar Chand s/o Sh. Brij Lal, 55. Sh. Falatu Ram s/o Sh. Ratti Ram, 56. Sh. Suresh Kumar s/o Sh. Girdhari Lal, 57. Sh. Rakesh Kumar s/o Sh. Girdhari Lal, 58. Sh. Surjit Kumar s/o Sh. Girdhari Lal, 59. Sh. Dinesh Kumar s/o Sh. Girdhari Lal, 60. Sh. Karam Chand s/o Sh. Jaishi Ram, 61. Sh. Pawan Kumar s/o Sh. Jaishi Ram, 62. Sh. Madan Lal s/o Sh. Dhanni Ram, 63. Sh. Rakesh Kumar s/o Sh. Dhanni Ram, all residents of Village Rajgir, P.O. Bahadpur, Tehsil Indora, District Kangra, H. P.

Subject.— Publication in Partition case.

In the above noted case/missal above mentioned respondents required served through publication in the Khata No. 176 of Mohal & Mauza Rajgir, Tehsil Indora, District Kangra H. P., on the next date of hearing 24-4-2018 to contest and appear in the above said case, in person or through counsel in the court, otherwise as per rule non appeared respondents be declared *exparte* and the case be disposed off accordingly. The publication is necessary before the fixed date.

Sd/-
Assistant Collector 2nd Grade,
Indora, Tehsil Indora, District Kangra, H.P.

In the Court of Assistant Collector 2nd Grade Indora, District Kangra, H.P.

Case No. 60/N.T./2016 Next Date of Hearing 24-4-2018

Shri Chander Mohan *Vs*. Shri Jagdev Singh & Others

Application for Partition of Land :

The following Respondents required service through publication :

1. Sh. Jagdev Singh s/o Sh. Ram Parkash, 2. Sh. Mahinder Singh s/o Sh. Ram Parkash, 3. Smt. Sanyogita Devi d/o Sh. Ram Parkash, 4. Smt. Parkash Kumari d/o Sh. Ganga Ram, 5. Smt. Sudarshana Devi wd/o Sh. Onkar Singh, 6. Sh. Kalyan Singh s/o Sh. Onkar Singh, 7. Sh. Neraj Kumar s/o Sh. Prem Singh, 8. Sh. Jaihind s/o Sh. Prem Singh, 9. Sh. Jeewan Singh s/o Sh. Kuldeep Singh, 10. Sh. Bhajan Singh s/o Sh. Kuldeep Singh, 11. Sh. Multan Singh s/o

Sh. Kuldeep Singh, 12. Smt. Anisha Kumari w/o Sh. Satish Kumar, 13. Sh. Satish Kumar s/o Sh. Jatinder, 14. Sh. Darshan Singh alias Sh. Avtar Singh s/o Sh. Onkar Singh, 15. Sh. Balbir Singh s/o Sh. Baldev Singh, 16. Sh. Ganesh Singh s/o Sh. Baldev Singh, 17. Sh. Rachpal Singh s/o Sh. Dharam Singh, 18. Sh. Kamalbir Singh s/o Sh. Dharam Singh, 19. Sh. Joginder Singh s/o Sh. Dharam Singh, 20. Sh. Randir Singh s/o Sh. Hoshiar Singh, 21. Sh. Jasbir Singh s/o Sh. Hoshiar Singh, 22. Smt. Vijay Kumari w/o Sh. Dilwar Singh, 23. Sh. Dilwar Singh s/o Sh. Rachpal Singh, 24. Smt. Veena w/o Sh. Amar Singh, 25. Sh. Kuldeep Singh s/o Sh. Uttam Singh, 26. Smt. Kanta Devi d/o Sh. Uttam Singh, 27. Sh. Santosh Kumari d/o Sh. Uttam Singh, 28. Smt. Naresh Kumari d/o Sh. Uttam Singh, 29. Smt. Rachana Devi wd/o Sh. Uttam Singh, 30. Sh. Rakesh Kumar s/o Sh. Parkash Chand, 31. Sh. Onkar Singh s/o Sh. Parkash Chand, 32. Sh. Harash Chand s/o Sh. Prakash Chand, 33. Sh. Surinder Kumar Sh. Jagdish Lal, 34. Sh. Monu Kumar s/o Jagdish Lal, 35. Kumari Anjana Rani d/o Sh. Jagdish Lal, 36. Manjna Rani d/o Sh. Jagdish Lal, 37. Saleena Devi d/o Sh. Jagdish Lal, 38. Ranjana Rani d/o Sh. Jagdish Lal, 39. Smt. Kamlesh Devi wd/o Sh. Jagdish Lal, 40. Sh. Dilbag Singh s/o Sh. Bhagat Ram, 41. Sh. Sukhchain Singh s/o Sh. Bhagat Ram, 42. Smt. Kusalya Devi s/o Sh. Bhagat Ram, 43. Sh. Balwant Singh s/o Sh. Surjan Singh, 44. Sh. Subhash Singh s/o Sh. Banshi Lal, 45. Sh. Maan Singh s/o Sh. Banshi Lal, 46. Sh. Darshan Singh s/o Sh. Banshi Lal, 47. Sh. Harash Chand s/o Sh. Baldev Singh, 48. Smt. Kanchan Devi w/o Sh. Baldev Singh, 49. Sh. Kartar Singh s/o Sh. Gian Singh, 50. Sh. Shakti Chand s/o Sh. Inder Ram, 51. Sh. Dalip Singh s/o Sh. Inder Ram, 52. Sh. Maan Chand s/o Sh. Durga Dass, 53. Sh. Kishore Lal s/o Sh. Durga Dass, 54. Smt. Sheela Devi wd/o Sh. Joginder Singh, 55. Sh. Hoshiar Singh s/o Sh. Narayan Dass, 56. Sh. Mehar Chand s/o Sh. Narayan Dass, 57. Sh. Roop Chand s/o Sh. Narayan Dass, 58. Sh. Kashmir Singh s/o Sh. Narayan Dass, 59. Sh. Darshan Singh s/o Sh. Sukh Lal, 60. Sh. Jagdish Chand s/o Sh. Harnam Singh, 61. Sh. Parvesh Kumar s/o Sh. Harnam Singh, 62. Sh. Pyiar Chand s/o Sh. Brij Lal, 63. Sh. Kishori Lal s/o Sh. Hari Ram, 64. Sh. Kartat Chand s/o Sh. Hari Ram, 65. Sh. Parkash Chand s/o Shahjada, 66. Sh. Sher Singh s/o Sh. Shahjada, 67. Sh. Falatu Ram s/o Sh. Ratti Ram, 68. Sh. Karam Chand s/o Sh. Jaishi Ram, 69. Sh. Pawan Kumar s/o Sh. Jaishi Ram, 70. Sh. Madan Lal s/o Sh. Dhanni Ram, 71. Sh. Rakesh Kumar s/o Sh. Dhanni Ram, all residents of Village Rajgir, P.O. Bahadpur, Tehsil Indora, District Kangra, H. P.

Subject.— Publication in Partition case.

In the above noted case/missal above mentioned respondents required served through publication in the Khata No. 190 of Mohal & Mauza Rajgir, Tehsil Indora, District Kangra H. P., on the next date of hearing 24-4-2018 to contest and appear in the above said case, in person or through counsel in the court, otherwise as per rule non appeared respondents be declared *exparte* and the case be disposed off accordingly. The publication is necessary before the fixed date.

Sd/-
Assistant Collector 2nd Grade,
Indora, Tehsil Indora, District Kangra, H.P.

In the Court of Assistant Collector 2nd Grade Indora, District Kangra, H.P.

Case No. 61/N.T./2016 Next Date of Hearing 24-4-2018

Shri Chander Mohan *Vs*. Shri Jagdev Singh & Others

Application for Partition of Land :

The following Respondents required service through publication :

1. Sh. Jagdev Singh s/o Sh. Ram Parkash, 2. Sh. Mahinder Singh s/o Sh. Ram Parkash, 3. Smt. Sanyogita Devi d/o Sh. Ram Parkash, 4. Smt. Sudarshana Devi wd/o Sh. Onkar Singh, 5. Smt. Prakash Kumari d/o Sh. Ganga Ram, 6. Sh. Kalyan Singh s/o Sh. Onkar Singh, 7. Sh. Neraj Kumar s/o Sh. Prem Singh, 8. Sh. Jaihind s/o Sh. Prem Singh, 9. Sh. Jeewan Singh s/o Sh. Kuldeep Singh, 10. Sh. Bhajan Singh s/o Sh. Kuldeep Singh, 11. Sh. Multan Singh s/o Sh. Kuldeep Singh, 12. Sh. Sudarshan Singh s/o Sh. Onkar Singh, 13. Sh. Darshan Singh alias Sh. Avtar Singh, 14. Sh. Kulbir Singh s/o Sh. Baldev Singh, 15. Sh. Balbir Singh s/o Sh. Baldev Singh, 16. Sh. Ganesh Singh s/o Sh. Baldev Singh, 17. Smt Shakti Devi d/o Sucheta, 18. Sh. Rachpal Singh s/o Sh. Dharam Singh, 19. Sh. Kamalbir Singh s/o Sh. Dharam Singh, 20. Sh. Joginder Singh s/o Sh. Dharam Singh, 21. Sh. Dilwar Singh s/o Sh. Dharam Singh, 22. Sh. Amar Singh s/o Sh. Dharam Singh, 23. Sh. Randir Singh s/o Sh. Hoshiar Singh, 24. Sh. Jasbir Singh s/o Sh. Hoshiar Singh, 25. Smt. Vijay Kumari w/o Sh. Dilwar Singh, 26. Smt. Veena w/o Sh. Amar Singh, 27. Sh. Tarsem Singh s/o Sh. Roop Singh, 28. Sh. Prem Singh s/o Sh. Roop Singh, 29. Sh. Ravinder Singh s/o Sh. Gian Singh, 30. Sh. Vijay Singh s/o Sh. Gian Singh, 31. Reghubir Singh s/o Sh. Gian Singh, 32. Smt. Soma Devi wd/o Sh. Gian Singh, 33. Sh. Kuldeep Singh s/o Sh. Uttam Singh, 34. Smt. Kanta Devi d/o Sh. Uttam Singh, 35. Santosh Kumari d/o Sh. Uttam Singh, 36. Smt. Naresh Kumari d/o Sh. Uttam Singh, 37. Smt. Rachana Devi wd/o Sh. Uttam Singh, 38. Sh. Bir Singh s/o Sh. Birbal alias Sh. Prabh Singh, 39. Sh. Rakesh Kumar s/o Sh. Parkash Chand, 40. Sh. Onkar Singh s/o Sh. Parkash Chand, 41. Sh. Harmesh Chand s/o Sh. Prakash Chand, 42. Sh. Surinder Kumar s/o Sh. Jagdish Lal, 43. Sh. Monu Kumar s/o Jagdish Lal, 44. Kumari Anjana Rani d/o Sh. Jagdish Lal, 45. Manjna Rani d/o Sh. Jagdish Lal, 46. Saleena Devi d/o Sh. Jagdish Lal, 47. Ranjana Rani d/o Sh. Jagdish Lal, 48. Smt. Kamlesh Devi wd/o Sh. Jagdish Lal, 49. Sh. Dilbag Singh s/o Sh. Bhagat Ram, 50. Sh. Sukhchain Singh s/o Sh. Bhagat Ram, 51. Smt. Kusalya Devi s/o Sh. Bhagat Ram, 52. Sh. Balwant Singh s/o Sh. Surjan Singh, 53. Sh. Subhash Singh s/o Sh. Banshi Lal, 54. Sh. Maan Singh s/o Sh. Banshi Lal, 55. Sh. Darshan Singh s/o Sh. Banshi Lal, 56. Sh. Haresh Chand s/o Sh. Baldev Singh, 57. Smt. Kanchan Devi w/o Sh. Gian Singh, 58. Sh. Kartar Singh s/o Sh. Gian Singh, 59. Sh. Shakti Chand s/o Sh. Inder Ram, 60. Sh. Dalip Singh s/o Sh. Inder Ram, 61. Sh. Desh Raj s/o Sh. Hari Ram, 62. Sh. Hoshiar Singh s/o Sh. Narayan Dass, 63. Sh. Mehar Chand s/o Sh. Narayan Dass, 64. Sh. Roop Chand s/o Sh. Narayan Dass, 65. Sh. Kashmir Singh s/o Sh. Narayan Dass, 66. Sh. Darshan Singh s/o Sh. Sukh Lal, 67. Sh. Jagdish Chand s/o Sh. Harnam Singh, 68. Sh. Parvesh Kumar s/o Sh. Harnam Singh, 69. Sh. Pyiar Chand s/o Sh. Brij Lal, 70. Sh. Kishori Lal s/o Sh. Hari Ram, 71. Sh. Kartar Chand s/o Sh. Hari Ram, 72. Sh. Parkash Chand s/o Shahjada, 73. Sh. Sher Singh s/o Sh. Shahjada, 74. Sh. Falatu Ram s/o Sh. Ratti Ram, 75. Sh. Karam Chand s/o Sh. Jaishi Ram, 76. Sh. Pawan Kumar s/o Sh. Jaishi Ram, 77. Sh. Madan Lal s/o Sh. Dhanni Ram, 78. Sh. Rakesh Kumar s/o Sh. Dhanni Ram, 79. Sh. Joginder s/o Smt. Santosh Kumari, 80. Smt. Anisha Kumari w/o Sh. Satish Kumar, 81. Sh. Satish Kumar s/o Sh. Jatinder, 82. Sh. Tara Chand s/o Sh. Saligram, 83. Sh. Parshotam Singh s/o Sh. Sultan Singh, 84. Sh. Shiv Charan Singh s/o Sh. Sultan Singh, all residents of Village Rajgir, P.O. Bahadpur, Tehsil Indora, District Kangra, H. P.

Subject.— Publication in Partition case.

In the above noted case/missal above mentioned respondents required served through publication in the Khata No. 182 of Mohal & Mauza Rajgir, Tehsil Indora, District Kangra H. P., on the next date of hearing 24-4-2018 to contest and appear in the above said case, in person or through counsel in the court, otherwise as per rule non appeared respondents be declared *exparte* and the case be disposed off accordingly. The publication is necessary before the fixed date.

Sd/-
Assistant Collector 2nd Grade,
Indora, Tehsil Indora, District Kangra, H.P.

ब अदालत जनाब जगत राम, नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय श्रेणी, इन्दौरा, जिला कांगड़ा, हि0 प्र0

मिसल नं0 : तारीख पेशी : 12–04–2018

श्री ओंकार सिंह पुत्र श्री जगदीश राज, निवासी मोहटली, तहसील इन्दौरा, जिला कांगड़ा, हि0 प्र0 ..... प्रार्थी।

बनाम

आम जनता

विषय.––प्रार्थना–पत्र जेर धारा 13(3) जन्म एवम् मृत्यु पंजीकरण अधिनियम, 1969.

प्रार्थी श्री ओंकार सिंह पुत्र श्री जगदीश राज, निवासी मोहटली, तहसील इन्दौरा, जिला कांगड़ा, हि0 प्र0 ने प्रार्थना पत्र प्रस्तुत करते हुए निवेदन किया है कि उसके पुत्र अभिषेक की जन्म तिथि 25–07–2010 ग्राम पंचायत मोहटली के अभिलेख में दर्ज न है जो कि दर्ज की जाए।

अतः इस इश्तहार राजपत्र के द्वारा सर्वसाधारण को सूचित किया जाता है कि उक्त जन्म पंजीकरण करने बारे किसी भी व्यक्ति को कोई एतराज हो तो वह असालतन या वकालतन दिनांक 28–03–2018 को प्रातः 10.00 बजे अदालत हजा में हाजिर होकर अपना एतराज पेश कर सकता है। कोई एतराज पेश न होने की सूरत में जन्म पंजीकरण के आदेश पारित कर दिए जाएंगे।

आज दिनांक 12–03–2018 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी किया गया।

मोहर। हस्ताक्षरित / –
नायब तहसीलदार एवम् सहायक समाहर्ता द्वितीय श्रेणी
इन्दौरा, जिला कांगड़ा, हि0 प्र0।

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ब अदालत श्री हंस राज, कार्यकारी दण्डाधिकारी बैजनाथ, जिला कांगड़ा, हि0 प्र0

श्री कशमीर सिंह पुत्र श्री बोहडा राम, निवासी नोरी, तहसील बैजनाथ, जिला कांगड़ा, हि0 प्र0।

बनाम

आम जनता नोरी

प्रार्थना–पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री कशमीर सिंह, निवासी गांव नोरी, डाकखाना पढ़ियारखर, जिला कांगड़ा, हि0 प्र0 ने इस अदालत में प्रार्थना–पत्र गुजारा है कि उसकी पुत्री निर्मला देवी का जन्म दिनांक 12–8–1977 को महाल नोरी में हुआ था परन्तु इस बारे पंचायत के रिकार्ड में पंजीकरण करने के आदेश दिये जायें।

अतः इस नोटिस के माध्यम से सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त पंजीकरण के बारे में कोई उजर / एतराज हो तो वह दिनांक 9–4–2018 को सुबह 10.00 बजे इस न्यायालय में असालतन या वकालतन हाजिर आकर पेश कर सकता है अन्यथा उपरोक्त जन्म तिथि का पंजीकरण करने के आदेश दे दिये जायेंगे। उसके उपरान्त कोई एतराज न सुना जायेगा।

आज दिनांक 9–3–2018 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर। हस्ताक्षरित / –
कार्यकारी दण्डाधिकारी,
बैजनाथ, जिला कांगड़ा, हि0 प्र0।

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ब अदालत श्री हंस राज, कार्यकारी दण्डाधिकारी बैजनाथ, जिला कांगड़ा, हि0 प्र0

श्री बलवीर सिंह पुत्र श्री तोखा राम, निवासी गांव व डाकघर चौवीन, तहसील बैजनाथ, जिला कांगड़ा, हि0 प्र0।

बनाम

आम जनता

प्रार्थना–पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री बलवीर सिंह, निवासी गांव व डाकघर चौवीन, तहसील बैजनाथ, जिला कांगड़ा, हि0 प्र0 ने इस अदालत में प्रार्थना–पत्र गुजारा है कि उसके पुत्र विशाल सिंह राणा का जन्म दिनांक 1–3–1986 को महाल चौवीन में हुआ था परन्तु इस बारे पंचायत के रिकार्ड में पंजीकरण नहीं करवाया जा सका। अब पंजीकरण करने के आदेश दिये जायें।

अतः इस नोटिस के माध्यम से सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त पंजीकरण के बारे में कोई उजर / एतराज हो तो वह दिनांक 9–4–2018 को सुबह 10.00 बजे इस न्यायालय में असालतन या वकालतन हाजिर आकर पेश कर सकता है अन्यथा उपरोक्त जन्म तिथि का पंजीकरण करने के आदेश दे दिये जायेंगे। उसके उपरान्त कोई एतराज न सुना जायेगा।

आज दिनांक 9–3–2018 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर। हस्ताक्षरित / –
कार्यकारी दण्डाधिकारी,
बैजनाथ, जिला कांगड़ा, हि0 प्र0।

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ब अदालत कार्यकारी दण्डाधिकारी बैजनाथ, जिला कांगड़ा, हि0 प्र0

श्री भविन्द्र सिंह पुत्र श्री गीगा राम, निवासी गांव व डाकघर सकड़ी, तहसील बैजनाथ, जिला कांगड़ा, हि0 प्र0।

बनाम

आम जनता

प्रार्थना–पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री भविन्द्र सिंह पुत्र श्री गीगा राम, निवासी गांव सकड़ी, डाकघर सकड़ी, तहसील बैजनाथ, जिला कांगड़ा, हि0 प्र0 ने इस अदालत में प्रार्थना–पत्र गुजारा है कि उसकी पुत्री अदिती का जन्म दिनांक 14–8–2012 को महाल सकड़ी में हुआ था परन्तु इस बारे पंचायत के रिकार्ड में पंजीकरण नहीं करवाया जा सका। अब पंजीकरण करने के आदेश दिये जायें।

अतः इस नोटिस के माध्यम से सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त पंजीकरण के बारे में कोई उजर / एतराज हो तो वह दिनांक 9–4–2018 को सुबह 10.00 बजे इस न्यायालय में असालतन या वकालतन हाजिर आकर पेश कर सकता है अन्यथा उपरोक्त जन्म तिथि का पंजीकरण करने के आदेश दे दिये जायेंगे। उसके उपरान्त कोई एतराज न सुना जायेगा।

आज दिनांक 9–2–2018 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर। हस्ताक्षरित / –
कार्यकारी दण्डाधिकारी,
बैजनाथ, जिला कांगड़ा, हि0 प्र0।

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समक्ष तहसीलदार एवम् सहायक समाहर्ता प्रथम श्रेणी, लडभड़ोल, जिला मण्डी (हि0 प्र0)

श्री राजमल उपनाम राजू राम पुत्र श्री पीरु, निवासी रकतल, डाकघर तुलाह, तहसील लडभड़ोल, जिला मण्डी (हि0 प्र0) .. प्रार्थी।

बनाम

आम जनता .. फरीकदोयम।

श्री राजमल उपनाम राजू राम पुत्र श्री पीरु, निवासी रकतल, तहसील लडभड़ोल, जिला मण्डी (हि0 प्र0) ने शपथ–पत्र सहित आवेदन किया है कि प्रार्थी का वास्तविक नाम राजमल उपनाम राजू राम है परन्तु राजस्व अभिलेख मुहाल रकतल में प्रार्थी का नाम राजमल ही दर्ज है। जो गलत है। अब दरुस्ती दर्ज करने बारे निवेदन किया है।

अतः इस इश्तहार द्वारा आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त नाम दरुस्ती दर्ज करने बारा कोई उजर / एतराज हो तो वह असालतन या वकालतन तारीख पेशी दिनांक 26–04–2018 को 10 बजे इस अदालत में हाजिर हो कर अपना उजर पेश कर सकता है। बसूरत गैर–हाजिरी एकतरफा कार्यवाही अमल में लाई जाकर नाम दरुस्ती दर्ज करने के आदेश पारित कर दिए जाएंगे।

यह इश्तहार आज दिनांक 07–03–2018 को मेरे हस्ताक्षर व मोहर सहित अदालत से जारी हुआ।

मोहर। हस्ताक्षरित / –
सहायक समाहर्ता प्रथम श्रेणी,
लडभड़ोल, जिला मण्डी (हि0 प्र0)।

नियन्त्रक, मुद्रण तथा लेखन सामग्री, हिमाचल प्रदेश, शिमला–5 द्वारा मुद्रित तथा प्रकाशित
इलेक्ट्रॉनिक हस्ताक्षरित राजपत्र, वैबसाइट http://rajpatrahimachal.nic.in पर उपलब्ध है एवम् ऑनलाइन सत्यापित किया जा सकता है